

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

COLLEEN O'DONNELL,)	
)	
Plaintiff,)	
-v-)	CIVIL ACTION NO.
)	04-40190-FDS
ALBERTO R. GONZALES,)	
Attorney General,)	
U.S. Department of Justice,)	
)	
Defendant.)	

THE ORAL DEPOSITION OF COLLEEN O'DONNELL LAVORATO,
held pursuant to Notice, and the applicable provisions of
the Federal Rules of Civil Procedure, before Marilyn
Franklin, a Court Reporter and Notary Public, within and for
the Commonwealth of Massachusetts, at FMC Devens,
Ayer, Massachusetts, Massachusetts, on Wednesday,
August 24, 2005, commencing at 10:05 a.m.

APEX Reporting
(617) 426-3077

PRESENT:

On Behalf of the Plaintiff:

DAWN D. McDONALD, ESQ.
Cooley, Shrair P.C.
1380 Main Street, Fifth Floor
Springfield, MA 01103
(413) 735-0750

On Behalf of the Defendant:

DAMIAN W. WILMOT, Assistant U.S. Attorney
U.S. Attorney's Office
1 Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3100

Also Present:

ERIKA TURNER, Office of General Counsel

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[1] Q Do you recognize that document?
 [2] A Yes.
 [3] Q Can you identify it for me please?
 [4] A It's when I first applied for the Bureau.
 [5] Q Okay. Is that submitted with the application, [6] this form?
 [7] A I don't remember.
 [8] Q Okay. Can you turn to the second page there. [9] Does your signature appear on that page?
 [10] A Yes.
 [11] Q It's there how many times?
 [12] A Three.
 [13] Q Can you read the dates of your signature?
 [14] A June 24, 1998. May 1, 1998 and August 31, 1998.
 [15] Q Do you know why you would have signed this on [16] three different occasions?
 [17] A No.
 [18] Q Okay. Anything in that document that is [19] inaccurate?
 [20] A No, not that I am aware of.
 [21] MR. WILMOT: Okay. I am going to show you what [22] has been marked as Exhibit No. 5.
 [23] (DOJ Exhibit No. 5 was marked for [24] identification.)
 [25] BY MR. WILMOT:

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[1] Q Do you recognize that document?
 [2] A No I don't.
 [3] Q Okay. Is that your signature of this document?
 [4] A Yes.
 [5] Q And is your signature dated?
 [6] A Yes. They typed in or somebody typed in the date.
 [7] Q You say you don't recognize that document?
 [8] A No I don't.
 [9] Q If you could turn to paragraph 6 of your [10] complaint. It says that on or about August 30, 1998, you [11] began your career at the DOP. Would you have filled out [12] this document perhaps on your first day of employment?
 [13] A Yes I could have. I just don't remember it.
 [14] Q Okay. What position were you hired for?
 [15] A Correctional officer.
 [16] Q Okay. Was that in a particular division or [17] department?
 [18] A Under custody.
 [19] Q And where were you located or situated when you [20] first started?
 [21] A FMC Devens.
 [22] Q Here in Devens?
 [23] A Yes.
 [24] Q Were you located in this main building or were you [25] located at a different site on the campus?

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[1] A Actually we were located, the prison wasn't built [2] yet, and we were located in a warehouse down the street.
 [3] Q Okay. Do you remember who you reported to at that [4] time?
 [5] A No I don't.
 [6] Q Okay. Do you remember if you received any [7] training when you first began as a corrections officer?
 [8] A Yes.
 [9] Q What training did you receive?
 [10] A I received three weeks of in-house training, which [11] included CPR and firearms and self defense. And then I did, [12] I'm sorry, it was two weeks training, in-house training.
 [13] Q Two weeks, okay.
 [14] A Two weeks. And then three weeks training in [15] Glynco, Georgia at the Federal Law Enforcement Training [16] Center.
 [17] Q Okay. During the two week training, in-house [18] training that you had here at FMC Devens, were you trained [19] on the agency's EEO policies?
 [20] A I don't remember.
 [21] MR. WILMOT: Okay. I am going to show you what's [22] been marked as I am going to give you the next few [23] actually. Maybe just those two. I am going to show you [24] what has been marked as Exhibit No. 6. [25] //

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[1] (DOJ Exhibit No. 6 was marked for [2] identification.)
 [3] BY MR. WILMOT:
 [4] Q Do you recognize that document?
 [5] A No I don't.
 [6] Q Okay. There's handwriting on what appears to be a [7] form. Is that your handwriting?
 [8] A It is, yes.
 [9] Q And is that your signature there?
 [10] A Yes.
 [11] Q And where does your signature appear on the [12] document?
 [13] A Where it says received.
 [14] Q Okay. And is it dated?
 [15] A Yes.
 [16] Q And what is the date?
 [17] A August 31, 1998.
 [18] Q And what does it say that you received on August [19] 31, 1998?
 [20] A I received a copy of the program's statement
 [21] 3420.08CN-01 dated 4-23-1997, Standards of Employee Conduct [22] on August 31, 1998.
 [23] Q Okay. Do you remember if in that document, this [24] Employee Standard of Conduct, whether or not there was any [25] language in there about EEO policies, anti-discrimination,

BSA

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[1] etc.?

[2] A I don't remember.

[3] MR. WILMOT: Okay, I am going to show you what [4] has been marked as Exhibit No. 7.

[5] (DOJ Exhibit No. 7 was marked for [6] identification.)

[7] BY MR. WILMOT:

[8] Q Do you recognize that document?

[9] A No.

[10] Q There appears to be a form and there's handwriting

[11] on it. Do you recognize the handwriting?

[12] A Yes.

[13] Q And whose is it?

[14] A Mine.

[15] Q There is a signature as well, is that your [16] signature?

[17] A Yes it is.

[18] Q And is it dated?

[19] A Yes it is.

[20] Q By signing this document, what did you

[21] acknowledge?

[22] A That I received a copy of Chapter 11 of program

[23] statement 3713.13 dated October 22, 1990, Sexual

[24] Harassment [24] Prevention Program.

[25] Q Does that refresh your memory that you received

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[1] some material on sexual harassment?

[2] A No.

[3] Q Okay.

[4] A I don't recall.

[5] MR. WILMOT: All right. I am going to show you [6] what has been marked as Exhibit No. 8.

[7] (DOJ Exhibit No. 8 was marked for [8] identification.)

[9] BY MR. WILMOT:

[10] Q Do you recognize that document?

[11] A No.

[12] Q There's handwriting and what also appears to be a

[13] form, do you recognize the handwriting?

[14] A Yes.

[15] Q And whose handwriting is that?

[16] A Mine.

[17] Q And does your signature appear on this document?

[18] A Yes it does.

[19] Q And what is the date of your signature?

[20] A August 31, 1998.

[21] Q And what are you acknowledging by signing this

[22] document?

[23] A I received a copy of the Master Agreement on the

[24] Standard of Employee Conduct.

[25] Q Okay. Are you familiar with the Master Agreement?

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[1] A Somewhat.

[2] Q Do you recall if there is language contained in [3] the Master Agreement on EEO policies or sexual harassment,

[4] anything to that nature?

[5] A I don't recall.

[6] Q Okay. Do you remember what the dates were of the

[7] training that you first received when you started your

[8] employment?

[9] A My first date of work was August 31, 1998, so I [10] believe that was the date of the training, actually, I know [11] that was the date the training started.

[12] Q Okay. Do you remember when it ended?

[13] A No I don't.

[14] MR. WILMOT: All right. I am going to show you [15] what has been marked as Exhibit No. 9.

[16] (DOJ Exhibit No. 9 was marked for [17] identification.)

[18] MR. WILMOT: You might want to share that with [19] your counsel.

[20] THE WITNESS: Okay.

[21] BY MR. WILMOT:

[22] Q Do you recognize this document?

[23] A This document?

[24] Q Yes. That's been marked as Exhibit No. 9?

[25] A No.

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[1] Q Have you seen a document like this before?

[2] A No.

[3] Q Okay. Well it shows here, your name appears on [4] this document. It shows, there's a column that says [5] training dates, do you see that?

[6] A I do, yes.

[7] Q And it shows August 31, 1998 through September 11,

[8] 1998 and it says institution familiarization. Do you see [9] that?

[10] A I do, yes.

[11] Q Is that the training that you've been - the [12] initial training that you received when you began at DOP?

[13] A Yes.

[14] Q Okay. If you could go down to April 12, 1999. On

[15] that line that says correctional training, annual-DOP. Do

[16] you see that?

[17] A Yes.

[18] Q What is correctional training or annual [19] correctional training?

[20] A That is, they refer to it as annual refresher [21] training to go over different parts of the job, computer [22] security, things like that.

[23] Q Do they cover EEO policies during that training?

[24] A Yes, they do.

[25] Q They do. Okay. And this training that says

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[1] annual on it, is it fair to say that you get this refresher
 [2] training every year?
 [3] A Yes.
 [4] Q Is there anytime that you did not receive that [5] annual
 training during your employment to the present?
 [6] A Yes.
 [7] Q Which period is that?
 [8] A I believe it was in 2003. But I don't know the [9] exact
 dates.
 [10] Q That you did not have the refresher training?
 [11] A Correct. Yes.
 [12] Q If you go to the bottom of the page, November 21,
 [13] 2003?
 [14] A Yes.
 [15] Q On that line, it says correctional training
 [16] annual-DOP, would that be the refresher training that's
 [17] cited there?
 [18] A I don't know.
 [19] Q Does seeing that, that you had some training in
 [20] November of 2003 refresh your memory that you had annual
 [21] refresher training?
 [22] A Annual I remember the firearms in November 2003
 [23] because I was taken out by myself or with a couple of other
 [24] people. But I don't remember the annual, I don't recall.
 [25] MR. WILMOT: Okay. Let's see. Mark this 11. Do

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[1] I have eleven?
 [2] (Off the Record.)
 [3] MR. WILMOT: They get a little out of order before [4] we get
 to ten and eleven. Let me show you what has been [5] marked as
 Exhibit these are Exhibits 13 and 14 together.
 [6] (DOJ Exhibits No. 13 and 14 were [7] marked for
 identification.)
 [8] BY MR. WILMOT:
 [9] Q Can you identify that document?
 [10] A That's annual refresher training for 2001.
 [11] Q If you flip to the second page there. Do you see [12] your
 name on that page?
 [13] A Yes I do.
 [14] Q And is your signature on that page?
 [15] A Yes.
 [16] Q And what is the date of that?
 [17] A January 9, 2001.
 [18] Q Okay. Do you remember during that annual
 [19] refresher training, you received training on sexual
 [20] harassment prevention?
 [21] A I don't remember.
 [22] MR. WILMOT: Okay. Let me show you what has been
 [23] marked as Exhibit 12.
 [24] (DOJ Exhibit No. 12 was marked for [25] identification.)

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[1] BY MR. WILMOT:
 [2] Q Can you identify that document?
 [3] A That's the annual refresher training schedule.
 [4] Q Do you recognize it?
 [5] A Yes.
 [6] Q Okay. If you look at Tuesday on that schedule [7] from
 9:30 to 10:00, it says "EEO Sexual Harassment [8] Prevention", do
 you see that?
 [9] A I do. Yes.
 [10] Q Does that refresh your memory that you had Sexual
 [11] Harassment Prevention training?
 [12] A No.
 [13] MR. WILMOT: It does not. Okay.
 [14] I am showing you what has been marked as Exhibit [15] No.
 15. Take a moment to look at that.
 [16] (DOJ Exhibit No. 15 was marked for [17] identification.)
 [18] MR. WILMOT: If it helps, I'm not going to quiz [19] you on
 it.
 [20] THE WITNESS: Oh.
 [21] BY MR. WILMOT:
 [22] Q I'm not going to ask you details on it. I just [23] want to
 see if that refreshes your memory that you had [24] sexual
 harassment training, refresher training in 2001?
 [25] A No it doesn't.

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[1] Q Okay. Do you remember if you received any [2] training
 on workplace violence at the annual refresher [3] training in 2001?
 [4] A 2001?
 [5] Q Yeah.
 [6] A I don't recall.
 [7] Q Okay. Take a look back at the training schedule. [8] If you
 look at Friday, 12 p.m. to 1:30 p.m. It says there
 [9] "ethics/standard of conduct" and underneath that it says
 [10] "staff conduct responsibility and workplace violence." Do
 [11] you see that?
 [12] A Yes I do.
 [13] Q Does that refresh your memory that you had [14] training
 on workplace violence?
 [15] A No.
 [16] MR. WILMOT: Okay. Let me show you what has been
 [17] marked as Exhibit No. 16.
 [18] (DOJ Exhibit No. 16 was marked for [19] identification.)
 [20] BY MR. WILMOT:
 [21] Q And I ask you the same question, if seeing that
 [22] document refreshes your memory that you had training on the
 [23] agency's workplace violence policies in 2001?
 [24] A It doesn't refresh my memory at all.
 [25] Q Okay. Now we saw your signature on the sign-in

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[1] sheet there earlier. Do you have reason to believe that you
 [2] were not at that training?
 [3] A No I was. I believe I was.
 [4] MR. WILMOT: All right. Let me show you what is [5] marked
 as Exhibit No. 17.
 [6] (DOJ Exhibit No. 17 was marked for [7] identification.)
 [8] BY MR. WILMOT:
 [9] Q Do you recognize that document?
 [10] A Yes.
 [11] Q Can you identify what it is?
 [12] A Annual refresher training schedule.
 [13] Q For what year?
 [14] A 2002.
 [15] Q Do you have memory of being present at this
 [16] training?
 [17] A No. I mean, I'm sure I was. I just don't [18] remember.
 [19] MR. WILMOT: Okay. I am going to show you what [20] has
 been marked as Exhibit No. 18.
 [21] (DOJ Exhibit No. 18 was marked for [22] identification.)
 [23] BY MR. WILMOT:
 [24] Q Do you recognize that document?
 [25] A Yes.

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[1] Q Can you identify what it is?
 [2] A It's a sign-in sheet for annual refresher [3] training.
 [4] Q And does your name appear on that sheet?
 [5] A Yes it does.
 [6] Q And did you sign next to your name on that sheet?
 [7] A Yes I did.
 [8] Q And what's the date of your signature?
 [9] A February 8, 2002.
 [10] Q If you turn to the next page of that document. [11] Can
 you identify that page of the document?
 [12] A The sign-in sheet for the annual refresher [13] training
 2002.
 [14] Q Okay. And does your name appear on that document,
 [15] on that page?
 [16] A Yes it does.
 [17] Q And did you sign next to your name?
 [18] A Yes.
 [19] Q And what is the date of your signature?
 [20] A February 7, 2002.
 [21] Q Okay. Can you turn back to the refresher training
 [22] schedule for 2002?
 [23] Do you have a memory of whether you received [24] training
 on those dates that you read off to me? Sexual [25] harassment
 prevention or any anti-discrimination policies

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[1] that the Bureau has?
 [2] A Can you rephrase that question?
 [3] Q Do you have a memory of having been training [4] during
 the two days that you just read off on the sign-in [5] sheet of being
 trained on sexual harassment prevention or [6] any
 anti-discrimination policies that the agency has?
 [7] A I don't remember.
 [8] Q Okay. Looking at the annual refresh training [9] schedule
 for 2002 which is marked as Exhibit No. 17.
 [10] A Okay.
 [11] Q It says for day one, 7:30 to 8:15 Ethics/Standard [12] of
 Conduct, Sexual Harassment Prevention, do you see that?
 [13] A Yes I do.
 [14] Q Does that refresh your memory that you had [15] training
 on sexual harassment prevention on January, or on [16] the date
 of this training in 2002?
 [17] A No.
 [18] Q Underneath that 9:00, it says Sexual abuse/ [19] Assault
 Prevention Intervention, do you see that?
 [20] A Yes I do.
 [21] Q Do you remember receiving training on that [22] subject?
 [23] A No.
 [24] Q In 2002?
 [25] A No.

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[1] MR. WILMOT: I am showing you what has been marked
 [2] as Exhibit No. 19.
 [3] (DOJ Exhibit No. 19 was marked for [4] identification.)
 [5] BY MR. WILMOT:
 [6] Q Can you identify what that document is?
 [7] A A lesson plan for sexual harassment prevention.
 [8] Q Does that refresh your memory?
 [9] A (No verbal response.)
 [10] Q If you want to take a look at that, and the [11] question is:
 does that refresh your memory of whether you [12] received sexual
 harassment prevention training in 2002?
 [13] A No it doesn't. I don't remember.
 [14] MR. WILMOT: Okay. I am going to show you what [15] has
 been marked as Exhibit No. 20.
 [16] (DOJ Exhibit No. 20 was marked for [17] identification.)
 [18] BY MR. WILMOT:
 [19] Q And if you can take a look at that, and the [20] question
 is: does that - well first, can you identify that [21] document as
 Exhibit 20?
 [22] A Annual Training Lesson Plan for 2002 for Sexual
 [23] Abuse/Assault Prevention and Intervention Program.
 [24] Q Okay. Can you take a look at that document and [25] let
 me know if that refreshes your memory whether you

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[1] received training on that subject in 2002?
 [2] A I don't remember the training.
 [3] Q Okay. Do you remember attending an annual [4] refresher training class in 2004?
 [5] A 2004. Yes I do.
 [6] Q Okay. Do you know what the dates of that training [7] was?
 [8] A No I don't.
 [9] MR. WILMOT: I am going to show you what has been [10] marked as Exhibit No. 21.
 [11] (DOJ Exhibit No. 21 was marked for [12] identification.)
 [13] BY MR. WILMOT:
 [14] Q Do you recognize that document?
 [15] A Yes I do.
 [16] Q Can you identify it for me please?
 [17] A Annual Refresher Training Schedule for 2004.
 [18] Q And what are the dates of that training?
 [19] A January 6 through February 27, 2004.
 [20] Q Does reading that refresh your memory as to the [21] dates you attended the training in 2004?
 [22] A No.
 [23] Q It does not?
 [24] A Not the dates, no.
 [25] Q Take a look at this document here. Exhibit No. 9.

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[1] If you turn to the second page of Exhibit 9.
 [2] The dates there say March 2, 2004 to March 5, 2004 [3] for the Correctional Training/Annual which you said earlier [4] was the annual refresh training. And looking at that does [5] that refresh your memory as to when the training could have [6] been?
 [7] A No.
 [8] Q Do you remember if the training was in January at [9] the beginning of the year or March?
 [10] A I honestly don't remember.
 [11] Q Okay. But you do have a memory of attending?
 [12] A Yes I do.
 [13] Q Do you remember whether or not you received [14] training on sexual harassment prevention and EEO policies?
 [15] A I sort of do, I kind of do, but not really.
 [16] Q Okay. Well, looking at Exhibit 21, it shows that [17] on Wednesday at 7:30, it says sexual harassment prevention [18] and EEO, does that refresh your memory that you sat through [19] that training?
 [20] A A little, it does.
 [21] Q Okay. It has a name there, J. Johnson. Do you [22] know who J. Johnson is?
 [23] A Yes I do.
 [24] Q Who is that?
 [25] A Janice Johnson.

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[1] Q Do you have a memory of Janice Johnson conducting [2] a training class on sexual harassment and EEO policies?
 [3] A I don't.
 [4] Q Okay.
 [5] A I don't remember.
 [6] MR. WILMOT: That's all right. I am going to show [7] you what has been marked as Exhibit 22.
 [8] (DOJ Exhibit No. 22 was marked for [9] identification.)
 [10] BY MR. WILMOT:
 [11] Q Can you identify that document?
 [12] A Annual training for 2004 for sexual harassment [13] prevention and EEO.
 [14] Q Okay. Can you look at that document and let me [15] know in reviewing it if it refreshes your memory that you [16] received training on sexual harassment and EEO policies?
 [17] A Actually, yes I do.
 [18] Q It does. Okay.
 [19] A It does. I just don't remember if Janice Johnson [20] was the one who did it.
 [21] Q Okay.
 [22] A But I do remember.
 [23] Q Okay. Do you remember receiving training on [24] sexual abuse/assault prevention?
 [25] A No, I don't recall.

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[1] Q Okay. And looking at Exhibit 21, it shows that [2] there was a class at 7:30 on sexual abuse and assault [3] prevention and intervention.
 [4] Does that refresh your memory that there was such [5] a class that you sat in on?
 [6] A I believe there was such a class that I sat in on [7] but I don't remember and I don't remember the warden being [8] there and that's why I'm confused at that.
 [9] MR. WILMOT: I am going to show you what has been [10] marked as Exhibit 23.
 [11] (DOJ Exhibit No. 23 was marked for [12] identification.)
 [13] BY MR. WILMOT:
 [14] Q And can you identify that document?
 [15] A That is the lesson plan for the annual training [16] 2004 for sexual abuse/assault prevention and intervention [17] program.
 [18] Q Can you look through that and see if that [19] refreshes your memory that you received training on that [20] subject in 2004?
 [21] A Yes, I did received training on it.
 [22] MR. WILMOT: Okay. I am going to show you what [23] has been marked as Exhibit 10. Catching up with our numbers [24] here.
 [25] (DOJ Exhibit No. 10 was marked for

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- [1] identification.)
 [2] BY MR. WILMOT:
 [3] Q Do you recognize that document?
 [4] A Yes.
 [5] Q Can you identify it for me please?
 [6] A That is I acknowledged that I received the [7] standards of employee conduct.
 [8] Q Okay. And there's handwriting on this form. Is [9] that your handwriting?
 [10] A Yes it is.
 [11] Q And does your signature appear on this page?
 [12] A Yes.
 [13] Q And what is the date of your signature?
 [14] A March 5, 1999.
 [15] Q Do you have a memory of receiving the standards of
 [16] employee conduct in 1999?
 [17] A No.
 [18] Q Okay. Do you remember signing the document?
 [19] A No.
 [20] MR. WILMOT: Okay. I am going to show you what [21] has been marked as Exhibit 11.
 [22] (DOJ Exhibit No. 11 was marked for [23] identification.)
 [24] BY MR. WILMOT:
 [25] Q Do you recognize that document?

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- [1] A Yes.
 [2] Q Can you identify what it is?
 [3] A That is employee conduct, standards of employee
 [4] conduct.
 [5] Q Do you have a memory of ever receiving that
 [6] document?
 [7] A Receiving it, no.
 [8] Q You do not. You said you had seen it before?
 [9] A Yes.
 [10] Q Do you know how you came to see that document?
 [11] A I believe this was sent to me while I was out. [12] This I know was sent to me and I don't remember where I saw [13] this.
 [14] Q Do you know by whom it was sent to you by?
 [15] A I believe HR. Human Resources.
 [16] Q Okay. Do you have a memory as to when HR sent it
 [17] to you?
 [18] A I don't. I know it was, no, I don't.
 [19] Q Okay. But you do remember HR sending it to you?
 [20] A Yes I do.
 [21] Q Okay. Now, you testified earlier that you were [22] hired as a corrections officer. And at some point, did your [23] title change or your station change?
 [24] A Actually both.
 [25] Q Why don't you take me through from when you

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- [1] started until today the different positions that you've been
 [2] through here at the agency?
 [3] A Okay. I started off as a corrections officer and [4] I'm not sure of the dates but then I was a senior officer.
 [5] Q And what department were you a senior officer?
 [6] A In custody.
 [7] Q Okay.
 [8] A My duties were basically the same. And then I was
 [9] hired on as an inmate systems officer.
 [10] Q And what department is that position in?
 [11] A Inmate Systems Management.
 [12] Q Is that your current position?
 [13] A Yes.
 [14] Q Okay. Starting back when you were hired as a
 [15] corrections officer in custody, do you remember who you
 [16] reported during the timeframe of when you were hired until
 [17] you became a senior officer?
 [18] A It was the shift lieutenant. I don't - whoever [19] was on.
 [20] Q That would be your immediate supervisor?
 [21] A Yes.
 [22] Q Do you have a second line supervisor after the [23] shift lieutenant?
 [24] A Yes, actually it's called an activities [25] lieutenant.

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- [1] Q Is the activities lieutenant above the shift [2] lieutenant?
 [3] A No. Actually the shift lieutenant is, the shift [4] lieutenant runs the shift and the activities lieutenant [5] assists the shift lieutenant in running the shift.
 [6] Q Okay. So who did you report to?
 [7] A The shift lieutenant or it depends on who is [8] behind the desk. It could have sometimes the activities [9] lieutenant.
 [10] Q And who did the shift lieutenant report to?
 [11] A The captain.
 [12] Q And who did the activities lieutenant report to?
 [13] A The captain.
 [14] Q And who was the captain in 1998?
 [15] A Michael Bollinger.
 [16] Q Okay. And has that changed in your employment?
 [17] A No.
 [18] Q Okay. He has been a captain for that entire time [19] of your employment?
 [20] A Yes.
 [21] Q Okay. You said you became a senior officer. Do [22] you remember when that happened?
 [23] A No I don't.
 [24] Q Is that a position you apply for or is that an
 [25] automatic promotion?

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- [1] A It's an automatic promotion.
[2] Q Okay. Do you know what triggers the automatic
[3] promotion to senior officer?
[4] A Yes.
[5] Q And what is that?
[6] A It's your GS level. Once you're a GS 7 you're
[7] considered a senior officer.
[8] Q And how did you become a GS 7?
[9] A Just stayed here. I believe I started off as a GS [10] 5 so it
had to take me two years to become a GS 7. It goes [11] on years,
the steps.
[12] Q Okay. So you became a GS 7 based on the length of
[13] your employment?
[14] A Yes.
[15] Q And do you remember when you became an inmate
[16] systems officer?
[17] A I don't remember the exact date, no.
[18] Q Okay. Do you remember who you reported to when
[19] you became an inmate systems officer?
[20] A Yes.
[21] Q And who was that?
[22] A There was two. Steve Gagnon and Fernando Messer.
[23] Q Can you spell Steven Gagnon's last name?
[24] A G-A-G-N-O-N.
[25] Q You said Fernando Messer?

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- [1] A Yes.
[2] Q Can you spell Fernando Messer's last name?
[3] A M-E-S-S-E-R.
[4] Q So you reported to both of these persons?
[5] A Yes I did.
[6] Q In any order?
[7] A Yes, it depended on who I saw first.
[8] Q What is Fernando Messer's title?
[9] A I don't know his title now.
[10] Q Okay. What was his title at the time you became [11] an
ISO?
[12] A An Assistant Inmate Systems Manager.
[13] Q And what was Steve Gagnon's title at the time you
[14] became an ISO?
[15] A Inmate Systems Manager.
[16] Q So is it fair to say that Mr. Messer reported to [17] Steve
Gagnon?
[18] A Yes.
[19] Q Okay. And you reported to Mr. Messer?
[20] A Or Steve Gagnon. Both of them.
[21] Q Okay. Now you said at some point your reports
[22] changed. When did that happen? The persons you reported
to [23] at the time you became an ISO was Steve Gagnon and
Fernando [24] Messer. Is that the case today?
[25] A No, no.

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- [1] Q Who do you report to now?
[2] A Anthony Amico.
[3] Q And who else?
[4] A Steve Gagnon.
[5] Q Okay. And what is Anthony Amico's title?
[6] A Assistant Inmate Systems Manager.
[7] Q Okay. So he at some point took over Fernando
[8] Messer's position?
[9] A Correct, yes.
[10] Q Okay. And did he take that after Fernando Messer
[11] left or was this someone in the interim?
[12] A It was after he left.
[13] Q Okay. And Mr. Amico reports to Mr. Gagnon?
[14] A Yes.
[15] Q And can you describe what your duties and
[16] responsibilities are as an inmate systems officer?
[17] A Okay. Well, there's actually two parts. We work [18] in
receiving and discharge. We process inmates in. And we
[19] process inmates out. Like identifying them and printing
[20] them and taking their picture. Calling the appropriate [21] staff
down. You talk to them. Medical counselors, [22] psychologists.
Property given out, property given to [23] inmates.
[24] And on the other hand, I am also working the, [25] we're in
charge of the mail room of our department and then

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- [1] the mailroom; it's going through, looking up inmates, seeing
[2] where their housing units are. Going through mail to make
[3] sure there's no contraband and putting inmates aside.
[4] Certain inmates aside for SIS.
[5] Q And what is SIS?
[6] A Special Investigation Services.
[7] Q So in the mailroom, if you're screening the mail [8] as you
described and you found something, you put that aside [9] for
SIS?
[10] A Correct, yes.
[11] Q Okay.
[12] A Well, actually, depending on what it is. It could [13] be
just nuisance contraband, then no. But if it's hard [14] contraband,
then we put it aside or gang related stuff for [15] SIS.
[16] Q What would be nuisance contraband?
[17] A Excess newspapers, clippings, that's considered
[18] nuisance.
[19] Q Okay. Are there regulations as to what is [20] nuisance
and what is hard contraband as you described it?
[21] A No. I mean, yes. Hard contraband is drugs, gang
[22] related stuff. If you read something in a letter that you
[23] think they might be trying to escape or things like that.
[24] Q Okay.
[25] A We consider that to put away for SIS.

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[1] Q Now when you became an inmate systems officer, I
 [2] am going to start calling you an ISO.
 [3] A Okay.
 [4] Q When you became an ISO, where was the receiving
 [5] and discharge activities performed?
 [6] A In the office. We have an area right past control [7] center
 that is a pretty big office that everything I [8] performed in there for
 receiving and discharge.
 [9] Q In relation to, well let's call this main building [10] that
 we're sitting in, I guess the main building compound.
 [11] Is the receiving and discharge office located in [12] this main
 building?
 [13] A Yes it is.
 [14] Q Okay. And the mail room functions you described,
 [15] where are those performed?
 [16] A When I first started down here, it was in the main
 [17] building and then after 9/11, it was an outside building.
 [18] Q Okay. So when you first started, when you say you
 [19] first started, do you mean when you first started as an ISO?
 [20] A Yes.
 [21] Q Okay. So there was a period of time where you
 [22] performed the mail functions it was done in this main
 [23] building?
 [24] A Yes.
 [25] Q Okay. And you said it was moved to another

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[1] location?
 [2] A Correct. Yes.
 [3] Q Where is that?
 [4] A That is, it's outside, like down this little [5] pathway from
 the institution. It's not attached to the [6] institution at all.
 [7] Q Do you know how far away it's from the institution [8] or
 this main building?
 [9] A About a five minute walk, if that.
 [10] Q Do you know in terms of distance, how far away it [11] is?
 [12] A Maybe a hundred feet. I'm just guessing though.
 [13] Q One hundred feet?
 [14] A Yeah, I'm guessing.
 [15] Q And you said it's down a pathway?
 [16] A Well, down this road leading into the institution. [17] You
 would take that road and then you would take a left and [18] it's
 right over there.
 [19] Q Okay. Is there anything in between the main
 [20] institution and the mail room?
 [21] A Yes.
 [22] Q What?
 [23] A The landscape building.
 [24] Q The landscape building?
 [25] A Yes.

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[1] Q Anything else?
 [2] A No.
 [3] Q If you were walking from the main institution to [4] the mail
 room, and think about that walk in your mind, what [5] do you
 pass on the way?
 [6] A The parking lot.
 [7] Q So you have to walk through the parking lot?
 [8] A Yes.
 [9] Q Okay.
 [10] A There's actually two ways to get there so.
 [11] Q Well, why don't you tell me one way?
 [12] A Okay.
 [13] Q And then we'll get to the second one?
 [14] A You go straight down where you drive in. You [15] would
 walk straight down. The parking lot would be on your [16] right.
 [17] Q You have to be as descriptive as possible because
 [18] this is being written down.
 [19] A Oh, okay.
 [20] Q Okay, so say you're doing hand gestures, take any
 [21] of that out.
 [22] A Okay. Walk out of the main building. Go straight
 [23] pass the parking lot. When you're at the end of the parking
 [24] lot, you take a left and then the building is maybe ten,
 [25] fifteen feet, maybe a little bit more on the left.

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[1] Q Okay. And you said there's a second way to get [2] there?
 [3] A Yes. You walk out the main building. You walk by [4] the
 parking lot and there's a set of woods on the left. [5] There's a little
 pathway that you can walk through and will [6] end up right in the
 mail room.
 [7] Q Okay. Now the beginning of that pathway you just
 [8] described, is that in relation to the parking lot, is that [9] on the
 end closest to the institution or is that near the [10] end of the
 parking lot?
 [11] A I've never walked that way so I don't really know.
 [12] Q Oh, okay.
 [13] A I've never done that.
 [14] Q How would you normally go back and forth between
 [15] the main institution and the mail room?
 [16] A It's depending on what my schedule is. If I'm the
 [17] only person, I have an inmate orderly pick me up here at the
 [18] institution and drive me to the mail room with the outgoing
 [19] mail, or if I'm at a different position where I'm just going
 [20] into the mailroom to help, I just drive right from home. I
 [21] go right into the mailroom.
 [22] Q Okay. And is that how you got back and forth
 [23] between the institution and the mailroom back when you first
 [24] started as an ISO?
 [25] A Well, no. Because the mailroom was inside when I

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- [1] first started.
- [2] Q Okay. Well, when it moved to this new location, [3] was that how you were getting back and forth between the [4] main institution and the mailroom?
- [5] A Yes.
- [6] Q Okay. As you testified, the parking lot from the [7] main institution to the mailroom, is a hundred feet long?
- [8] A That's a guess, I don't know approximate or [9] anything too good.
- [10] Q Okay. I am going to show you - mark this as [11] let's see here. This is going to seem like a slate [12] question, have you ever been to a football game before?
- [13] A Yes, one.
- [14] Q With the parking lot in mind and your memory of a [15] length of a football field, could you fit a football field [16] in that parking lot?
- [17] A I think so, I don't know.
- [18] Q Do you know a football field is a hundred yards?
- [19] A No.
- [20] MR. WILMOT: Okay. Let me show you what is marked [21] as Exhibit 24.
- [22] (DOJ Exhibit No. 24 was marked for [23] identification.)
- [24] THE WITNESS: Okay.
- [25] BY MR. WILMOT:

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- [1] Q Do you recognize that document?
- [2] A Yes.
- [3] Q Can you identify what it is?
- [4] A It's my job description for inmate systems [5] officer, GS 7.
- [6] Q Okay. Can you take a moment to look through that?
- [7] A Sure.
- [8] Q And what we're going to ask is whether or not that [9] document accurately describes what your duties and [10] responsibilities are?
- [11] A Okay.
- [12] (Witness reviews document.)
- [13] BY MR. WILMOT:
- [14] Q Do you remember my question?
- [15] A No.
- [16] Q My question was: does this position description [17] accurately describe what your duties and responsibilities [18] are as an ISO?
- [19] A Yes.
- [20] Q Are there things in here that you disagree with?
- [21] A No. I would say not that I can see. Everything [22] in here I've believed I've done.
- [23] Q Okay. Is there anything that you would add to [24] this that it does not include?
- [25] A No, not that I can think of.

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- [1] Q You described earlier that you performed the [2] receiving and discharge functions in the receiving and [3] discharge office here in the main institution, the main [4] facility.
- [5] Are you aware whether or not you could perform the [6] receiving and discharge functions elsewhere in the compound?
- [7] Is that possible?
- [8] A Elsewhere in the compound?
- [9] Q Let's say you wanted to perform your functions in [10] receiving and discharge but you didn't want to do it in that [11] office, is that a possibility?
- [12] A No, it's not.
- [13] Q And let's say you wanted to perform the mailroom [14] functions. Could you do that somewhere else in the compound [15] other than in the mailroom office?
- [16] A No.
- [17] Q You could not?
- [18] A No.
- [19] Q Okay. Bringing your attention back to your [20] complaint marked as Exhibit No. 2. Paragraph 7 says David [21] Reynoso is also an employee of the BOP and was a coworker of [22] the plaintiff. The plaintiff and David Reynoso also engaged [23] in a dating relationship. Do you see that?
- [24] A Yes.
- [25] Q When did you begin dating David Reynoso?

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- [1] A I believe it was October of 1998.
- [2] Q October of 1998?
- [3] A Yes. September or October of 1998.
- [4] Q And that was your boyfriend? You were seeing each [5] other exclusively?
- [6] A Yes.
- [7] Q Did you live with each other at any point?
- [8] A Yes.
- [9] Q When did you live with Mr. Reynoso?
- [10] A I believed we moved in together October of 1999.
- [11] Q Okay. And when did or - obviously you're married [12] now, he's not living with you anymore.
- [13] When did you move out or he moved out? When did [14] you separate from living with each other?
- [15] A I don't remember.
- [16] Q Do you remember if you lived together over a year?
- [17] A Yes I believe so.
- [18] Q Do you believe it was as long as two years that [19] you lived together?
- [20] A No. It definitely wasn't two years.
- [21] Q But more than a year?
- [22] A Yes.
- [23] Q So you moved in with each other in October 1999 [24] and you at least lived with each other as October of 2000?
- [25] A I believe so, yes.

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- [1] Q Were you still living with him at any point in [2] time in 2001?
- [3] A No, I think he moved out but I don't know. I [4] don't remember.
- [5] Q And what was your address at that time?
- [6] A 93 Sherman Avenue, Devens, I forget the apartment [7] number.
- [8] Q And how long did you live at that address?
- [9] A Under two years. I know that.
- [10] Q Do you remember whose name the apartment was [11] under?
- [12] A Mine.
- [13] Q And why did Mr. Reynoso move out?
- [14] A We were having problems and he was living there [15] part-time I would say.
- [16] Q Okay.
- [17] A Maybe three or four nights a week.
- [18] Q Okay.
- [19] A He had half his stuff at his mother's and half his [20] stuff at mine, at our place. But then once they gave an [21] eviction notice, because they were turning them into condos, [22] everyone had to leave.
- [23] Q Oh, I see. So did he leave at that time or did he [24] leave when you left?
- [25] A He was living part-time there. He had two

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- [1] addresses I would say.
- [2] Q Okay. Up until the date that you had to leave, [3] would he still stay there?
- [4] A Oh yes.
- [5] Q You continued dating past that point?
- [6] A Yes.
- [7] Q Was there a point where your relationship ended [8] with Mr. Reynoso?
- [9] A It was on and off for a couple, a few years when I [10] was with him.
- [11] Q Okay. And when was it off? When was the last [12] time it was off?
- [13] A The last time was April 2002. I believe that's [14] the date.
- [15] Q And is that the instant you described in your [16] complaint as to when Mr. Reynoso pushed you and kicked you?
- [17] A Yes.
- [18] MR. WILMOT: Okay, we'll get to that.
- [19] I am going to show you what has been marked as [20] Exhibit 25. It's a document that I received in the course [21] of discovery.
- [22] (DOJ Exhibit No. 25 was marked for [23] identification.)
- [24] BY MR. WILMOT:
- [25] Q Do you recognize that document?

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- [1] A Yes.
- [2] Q Can you identify it for me please?
- [3] A That was a message he left on my machine.
- [4] Q A message that Mr. Reynoso left on your machine?
- [5] A Yes.
- [6] Q And where was this machine located?
- [7] A At my mother's house.
- [8] Q And so this is a message, this is an answering [9] machine at your mother's house?
- [10] A Yes. It was my answering machine. I had my own [11] phone number there.
- [12] Q Okay. And what is the date of that document?
- [13] A March 23, 2002.
- [14] Q Okay. So were you still together with Mr. Reynoso [15] at this point?
- [16] A Yes.
- [17] Q Okay. Was there a reason why you saved or you [18] transcribed that message from March 2002?
- [19] A Well I use to save those messages. Just tried to, [20] tried to get away from him, like I would play them, trying [21] to get away from him. I don't know why, I just put it down.
- [22] Q Okay. Now you said that you had saved other [23] messages?
- [24] A Yes.
- [25] Q Did you transcribe any of those?

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- [1] A No. I used them for my own personal, to try to [2] get enough strength to break up with him so I would, for [3] myself.
- [4] Q All right. When you transcribed that message, [5] what did you do with it?
- [6] A This message?
- [7] Q Yes.
- [8] A I believe, I believe I gave it to the warden. I'm [9] not a hundred percent. I believe the warden, I know I [10] showed the warden but I don't remember exactly who I gave it [11] to and what I did with it.
- [12] Q Do you remember when you transcribed that message?
- [13] A It was definitely after the incident. I don't [14] remember what date though.
- [15] Q Okay. So at some point in 2003, you transcribed [16] this message from March 2002?
- [17] A No. It was actually sometime after April 2002.
- [18] Q I'm sorry. So after April 2002, you transcribed [19] this message?
- [20] A Yes.
- [21] Q But yet, you had saved the message from the date [22] of March 22, 2002 until the point when you transcribed it?
- [23] A March 23, I saved it. No. Because I transcribed [24] it and I still had it on my machine because my machine [25] allowed for thirty days to hold on, to save my message for

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[1] thirty days. So I had it for those thirty days.
 [2] Q Okay. All right. So, I'm a little confused.
 [3] Do you know when you listened to that message and
 [4] transcribed it on paper?
 [5] A I don't remember the exact date but it was [6] definitely
 after the April 8 incident.
 [7] Q Okay. And you memory is that you're the one who
 [8] transcribed it?
 [9] A Yes.
 [10] Q Okay. And are you, is your testimony that you [11] were
 able to transcribe it after the April 8 event because [12] your
 machine saved messages for thirty days?
 [13] A Yes.
 [14] Q Okay. So is it fair to say you probably [15] transcribed it
 some point in April of 2002?
 [16] A Definitely yes.
 [17] Q Okay. And you said you gave that to the warden?
 [18] A I did.
 [19] Q Do you know when you did that?
 [20] A No.
 [21] Q Was it in April of 2002?
 [22] A I don't remember.
 [23] Q Okay. Well to bring back to you your compliant.
 [24] In paragraph 8, it says that starting with the [25] second
 sentence, on April 8, 2002 plaintiff and David

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[1] A SIS office.
 [2] Q Do you remember what his shift was that day?
 [3] A Yes.
 [4] Q What was it?
 [5] A 8:00 to 4:00.
 [6] Q Okay. Do you remember when you met with Mr.
 [7] Reynoso and walked off the property if it was before his
 [8] duty day started or after?
 [9] A Oh, definitely after.
 [10] Q Okay. And do you remember when you and Mr.
 [11] Reynoso left the property if it was during your duty day or
 [12] after?
 [13] A It was during.
 [14] Q Okay. Can you describe what happened? How did
 [15] you come to decide to both leave the property together? Can
 [16] you describe those events?
 [17] A Sure. I had called him to discuss - I found out [18] that
 he had been cheating on me. And I called him and he [19] said -
 and he denied it, and he suggested that we go for [20] coffee to
 talk. And he picked me up. He came to the [21] mailroom because
 my car wasn't there. He picked me up.
 [22] Q And before you move on to the next point, when you
 [23] were leaving the mailroom, did you let anyone know that you
 [24] were leaving?
 [25] A Yes.

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[1] Reynoso left FMC Devens property and went off site to
 [2] discuss their relationship problems.
 [3] Do you remember what time you and Mr. Reynoso left [4] the
 property?
 [5] A No I don't.
 [6] Q Okay. Do you remember if it was in the morning or [7] in
 the afternoon?
 [8] A I believe it was in the morning.
 [9] Q Okay. What shift were you working that day?
 [10] A 6:30 to 3:00.
 [11] Q Okay. Do you remember if it was in the early
 [12] morning?
 [13] A I don't remember.
 [14] Q Okay.
 [15] A I remember like, it wasn't at the beginning of my [16] shift
 but I don't remember the exact time.
 [17] Q Okay. Where were you working that day?
 [18] A Mirror.
 [19] Q In the Mirror office that's located outside the [20] main
 building?
 [21] A Yes.
 [22] Q Do you remember where Mr. Reynoso was working that
 [23] day?
 [24] A Yes.
 [25] Q And where was he working?

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[1] Q Who did you let know?
 [2] A My coworkers that were in the mailroom with me.
 [3] Q And who are they or were they?
 [4] A Brian Padula, Keith MacDonald, Holly Glover. [5] That's all
 that I can recall that was there.
 [6] Q Okay.
 [7] A There could have been more but I don't recall.
 [8] Q Do you remember telling them why you were leaving?
 [9] A No, I don't remember.
 [10] Q Okay. Do you typically have to carry keys to get [11] into
 the mailroom?
 [12] A Yes.
 [13] Q Did you have your keys with you that day?
 [14] A I don't remember.
 [15] Q Do you remember before you left, if you took your
 [16] keys with you or did you give them to someone?
 [17] A I don't remember.
 [18] Q Okay. All right. So you said Mr. Reynoso picked [19] you
 up?
 [20] A Yes.
 [21] Q And he was driving what, his car?
 [22] A Yes.
 [23] Q What happened next?
 [24] A He actually came into the mailroom.
 [25] Q Okay.

BSA

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[1] A And then we walked out onto the deck. They have a
 [2] deck off the mailroom.
 [3] Q Okay.
 [4] A And his car was there and he said let's go get a [5] coffee
 and talk about it. We were arguing though. We were [6] arguing.
 [7] Q Do you remember what you were saying and what he
 [8] was saying?
 [9] A I told him I didn't believe him anymore. That he [10] was
 cheating on me.
 [11] Q Was there any physical touching at that point?
 [12] A No, no.
 [13] Q Okay.
 [14] A We got in his car and we started to drive and we
 [15] were arguing about him cheating.
 [16] Q And was the interaction still verbal at this [17] point?
 [18] A Yes.
 [19] Q Did he hit you in the car?
 [20] A No.
 [21] Q Did you hit him?
 [22] A No.
 [23] Q Okay.
 [24] A We went down - he said, he started getting angry. [25] So
 he pulled off to the right of the road, a place called

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[1] Mirror Lake which is right down the street from the prison.
 [2] Q Okay.
 [3] A And he got out and started pacing. And then I got [4] out
 and started arguing with him. And then I don't remember [5] the
 exact, how it - but he assaulted me.
 [6] Q Can you describe, he's pacing and you're arguing.
 [7] What happened?
 [8] A I don't remember the exact order. I know he [9] kicked me
 and he grabbed me. He was grabbing me. And then [10] I started
 to walk away and he held on tight and I got loose. [11] I don't
 know how with arms to get loose and I got loose and [12] I started
 to take off on foot, and...
 [13] Q Well let's back up a little. He was pacing and [14] you
 said he kicked you and you were arguing. How close were
 [15] you to him when he was pacing and you were arguing.
 [16] A A few feet.
 [17] Q Okay. So he stopped pacing and walked over to you
 [18] and kicked you.
 [19] A No. He stopped pacing and walked over to me and
 [20] started arguing with me.
 [21] Q Okay.
 [22] A And I don't remember if he grabbed me first or [23] what.
 I just remember he kicked me.
 [24] Q And where did he kick you?
 [25] A In my left thigh.

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[1] Q Okay. In your upper thigh?
 [2] A Yes.
 [3] Q Okay. Now during Mr. Reynoso's duty day, that day [4] in
 particular, was he wearing a uniform of any kind?
 [5] A Yes.
 [6] Q And can you describe the uniform?
 [7] A White shirt with an emblem with the Bureau of [8] Prisons.
 And grey pants, black boots. And I don't know if [9] he had his
 jacket on or not. I don't remember.
 [10] Q Were you wearing a uniform of any kind?
 [11] A Yes.
 [12] Q And can you describe your uniform at that time?
 [13] A Grey pants, black boots, white shirt with the [14] emblem
 of the Bureau on the side. Oh, and it says FMC [15] Devens above
 the front pocket.
 [16] Q On the left side? The right side?
 [17] A I believe it's the left side.
 [18] Q Okay. So you said that he kicked you and then
 [19] grabbed you and you said you broke loose. What did you do
 [20] after you broke loose?
 [21] A I started walking really fast towards the road.
 [22] Q The road that led to the lake?
 [23] A Yes.
 [24] Q Okay. And what happened next.
 [25] A He pulled up next to me and tried to tell me to

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[1] get into his car. And I said no. You know, arguing. He [2] just
 sped off.
 [3] Q Now, when he asked you to get into the car, what [4] did
 he say to you?
 [5] A I don't remember the exact words. I don't [6] remember
 the words.
 [7] Q And why didn't you get into the car at that point?
 [8] A He had hit me and I was upset. I was really upset [9] and I
 just wanted him to leave me alone at that point.
 [10] Q When you were upset - after he kicked you, did [11] you
 continue to argue with him at all, or did you...
 [12] A Not really, just leave me - yeah. Just leave me [13] alone
 type of stuff.
 [14] Q I'll ask more specifically, your arguing about [15] your
 relationship was prior to the kick; correct?
 [16] A Yes.
 [17] Q Did you begin to argue about that again after he
 [18] kicked you?
 [19] A You know, I don't remember. I don't remember the
 [20] exact words. I was so upset that I don't remember.
 [21] Q And what were you upset about?
 [22] A Because I didn't believe him. He was cheating on
 [23] me.
 [24] Q And so you said you didn't get in the car with him
 [25] because you were upset. Is that what you were upset about?

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[1] Because he was cheating?
 [2] A And because he hit me again after he promised me [3] he wouldn't.
 [4] Q Okay. So he had hit you before?
 [5] A Several times, yes.
 [6] Q What happened next after he sped off?
 [7] A Okay. A state trooper was driving down the street [8] and pulled over and asked me if everything was all right. I [9] don't remember what I said to him. I really don't. But at [10] that point, Reynoso came back around. I don't know if he [11] turned, he must have turned his car around and the state [12] trooper went over to him. And I don't know what was said [13] there I was far away. And he asked me if I wanted a ride, [14] the trooper did.
 [15] Q Okay.
 [16] A And the trooper asked me if I wanted a ride back [17] to the institution and I said no, I needed to walk.
 [18] Q And why did you turn down the ride back to the [19] institution?
 [20] A I was so upset. I don't remember why. I just [21] remember I was so upset.
 [22] Q How long of a walk back to the mailroom is it from [23] Mirror Lake?
 [24] A I actually made it to the training center.
 [25] Q Okay.

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[1] A Which isn't that far of a walk.
 [2] Q So you walked to the training center?
 [3] A Yes.
 [4] Q Before we get to that point, when the officer was [5] asking you questions, did he ask you if you needed any help [6] or assistance of any kind?
 [7] A Yes he did.
 [8] Q And what was your response to that?
 [9] A No.
 [10] Q Okay. Do you remember what type of assistance or [11] help did he offer?
 [12] A I don't. I just remember him asking me if I [13] needed a ride back to the institution.
 [14] Q Okay. And so when you got back to the training [15] center, what did you do there?
 [16] A I called the mailroom.
 [17] Q Okay.
 [18] A For a ride.
 [19] Q And someone from the mailroom picked you up?
 [20] A Yes.
 [21] Q And who was that?
 [22] A Holly Glover.
 [23] Q Okay. Did you call Holly specifically or did you [24] just ask for anyone to pick you up?
 [25] A I just asked for anyone. She answered but I said

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[1] I just needed, I needed for someone to pick me up at the [2] training center.
 [3] Q Okay.
 [4] ~~A And he answered the phone.~~
 [5] Q And what happened next?
 [6] A She picked me up. I was hysterically crying. I [7] told her what happened. She brought me back to the [8] mailroom. We went into the ladies room and she - to see [9] the bruise, to see if there was a bruise and there was.
 [10] Q Okay.
 [11] A And Brian Padula, how did it go? Brian Padula [12] asked what had happened and I told him what had happened, [13] and he called - who did he call? SIS, Al Colon.
 [14] Q And who is Al Colon.
 [15] A He was at the time, he was - I forget his title, [16] a tech for SIS.
 [17] Q Okay.
 [18] A I don't remember the exact title though. And then [19] I called Fernando Messer who was the Assistant Inmate [20] Systems Manager.
 [21] Q Okay.
 [22] A And he came out to the mailroom.
 [23] Q And do you have a memory as to what time it was, [24] at this point, when all this activity is going on?
 [25] A I have no idea.

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[1] Q And where was Fernando Messer that day?
 [2] A He was in his office in the main building.
 [3] Q Okay. So you called him and he somehow got to the [4] mailroom?
 [5] A Yes.
 [6] Q And you spoke to him there?
 [7] A Yes.
 [8] Q What did you say to him?
 [9] A I don't recall everything that I said. I just [10] know him I told him that I was hit or kicked.
 [11] Q Do you remember what he said to you in response?
 [12] A I don't. I just know that he said to me to see [13] the captain.
 [14] Q Okay. And that's Mr. Bollinger?
 [15] A Yes. In the main building.
 [16] Q And how did you get to the main building from the [17] mailroom?
 [18] A Brian Padula.
 [19] Q Now did you speak with the captain before coming [20] to the mailroom, the main institution, when you were still [21] in the mailroom?
 [22] A No.
 [23] Q Did you speak to anyone who is located in the main [24] institution before leaving the mailroom on your way to see [25] the captain?

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- [1] A Not that I can recall. Not that I remember.
 [2] Q All right. So Padula drives you to the main [3] building.
 What happens next?
 [4] A He takes me up to see the captain.
 [5] Q Okay.
 [6] A His office is located in this main building but [7] off the compound.
 [8] Q Okay. And did you get to meet with the captain?
 [9] A Yes.
 [10] Q Can you describe that meeting to me please?
 [11] A I told him what happened. I don't remember my
 [12] exact words. At that point, he called on the radio the
 [13] special investigation agent, Dennis Duffy, and he came to
 [14] the office.
 [15] Q When you say called on the radio, what type of [16] radio was that?
 [17] A A radio we communicate with. Like a walkie- [18] talkie.
 [19] Q A walkie-talkie?
 [20] A Yeah.
 [21] Q Okay. So he called Dennis, what's the last name
 [22] again?
 [23] A Duffy. D-U-F-F-Y.
 [24] Q Okay. And what did he say to Dennis Duffy?
 [25] A That he had to come to his office.

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- [1] Q That what?
 [2] A The captain told Duffy that he needed to come to [3] the captain's office. That he needed to come to the [4] captain's office.
 [5] Q And what happened next?
 [6] A He came to the office, and I don't remember if I'm [7] the one who told Duffy or the captain told him, but they [8] told him what happened and he just said, Huh. He just told [9] me he had to leave because he has a family emergency. [10] Reynoso just told me he had to leave because he has a family [11] emergency.
 [12] Q Okay.
 [13] A And then the captain said that I should go to the
 [14] state police and file a complaint, and they sent Brian
 [15] Padula with me so I didn't have to go alone.
 [16] Q Okay. Now how much time had passed between the
 [17] incident at Mirror Lake to when your meeting with the
 [18] captain started?
 [19] A I don't remember.
 [20] Q Okay. Do you remember what time of day it was
 [21] when you went to the state police?
 [22] A I don't remember.
 [23] Q Okay. Do you remember if it was near the end of
 [24] your shift by this point?
 [25] A I don't remember.

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- [1] Q Okay. So your memory is that Padula came and [2] drove with you to the state police?
 [3] A Yes.
 [4] Q And did he drive?
 [5] A Yes he did.
 [6] Q Before you left with Padula, did you meet with [7] anyone else?
 [8] A I know I met with the warden that day but I don't [9] know if it was before or after. I don't remember.
 [10] Q Okay. You have a memory of meeting with the
 [11] warden?
 [12] A Yes.
 [13] Q Can you describe that meeting for me?
 [14] A I know Cindy Lord was in there. And I don't know
 [15] who else was in there. And I just, I was crying a lot. I
 [16] don't - I was hysterical so I don't remember everything
 [17] that was said.
 [18] Q Do you remember what it was you said to the
 [19] warden?
 [20] A No.
 [21] Q Okay. Do you have any memory of anything that you
 [22] said to the warden on that day?
 [23] A He's going to kill me, go to the police that's [24] what I thought, that he's going to kill me.
 [25] Q You said that?

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- [1] A Yes.
 [2] Q And do you remember what the warden's response was
 [3] to that?
 [4] A No. I just can only remember telling everyone [5] he's going to kill me. I don't remember his response. No.
 [6] Q Did the warden offer you any assistance at all?
 [7] A Yes.
 [8] Q What did he offer you?
 [9] A To take some time off on admin leave and he [10] offered, he offered to send somebody with me to apply for a
 [11] restraining order because that was after the state trooper
 [12] suggested that I do that.
 [13] Q Okay. Did he offer to call a hospital for you or
 [14] anything like that?
 [15] A I don't remember. I don't recall.
 [16] Q Okay. You were saying just now that he offered to
 [17] send someone with you to apply for a restraining order, and
 [18] I think you said that a state officer gave you that same
 [19] advice to apply for a restraining order?
 [20] A Yes.
 [21] Q Does that refresh your memory as to when you met
 [22] the warden that day? If it was before or after you went to
 [23] the state police?
 [24] A I believe it was - I went to the state police [25] twice. So I think it was after the first time.

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[1] Q Okay. So why don't you describe to me the first [2] time you went to the state police?

[3] A The first time I went with Brian Padula. He took [4] me to tell them what happened.

[5] Q Okay.

[6] A And, you know, and then he drove me back to the [7] institution.

[8] Q Let's back up a little bit. When you went to the [9] state police, what did you tell the state police?

[10] A What had happened at Mirror Lake.

[11] Q Okay. Did they take a statement from you? What [12] happened there after you told them what happened?

[13] A He did take a statement from me.

[14] Q All right. Is that a written statement?

[15] A I believe so but I don't remember.

[16] Q Okay. Do you remember signing anything there?

[17] Your first trip to the state police?

[18] A I don't remember.

[19] Q Do you remember who you spoke to there?

[20] A I know it was a male. I forget his name. It was [21] Sean. I forget his name.

[22] Q You said Padula then drove you back to the [23] institution?

[24] A Yes.

[25] Q And that's the main building that you're talking

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[1] about?

[2] A Yes.

[3] Q What happened when you came back here?

[4] A I believe that's when I met with the warden. [5] After the first trip to the state police.

[6] Q And where did that meeting take place?

[7] A In the warden's office.

[8] Q And you said after meeting the warden, you went [9] back to the state police?

[10] A Yes.

[11] Q How did you get back there the second time?

[12] A The warden actually called the mailroom and spoke [13] with Holly Glover. And asked if she could come over to his [14] office and pick me up and take me to the state police.

[15] Q Do you have a memory as to what time of day it was [16] when Holly drove with you back to the state police?

[17] A I don't remember.

[18] Q Okay. And what happened after you went back to [19] the state police the second time?

[20] A We met with the trooper who took my statement. [21] And we followed to Ayer District Court to take out a [22] restraining order.

[23] Q Okay.

[24] A And I was denied.

[25] Q Before we get to that point, do you have a memory

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[1] of anyone telling you why you had to go the state police to [2] report this?

[3] A No. I just remember, you know, to go to the state [4] police. I don't remember the exact words, no.

[5] Q Do you remember anyone telling you that you needed [6] to go to the state police because the incident happened off [7] the premises of the BOP?

[8] A I don't remember that.

[9] Q Okay. So you said that you followed a state [10] trooper to Ayer District Court is that what you said?

[11] A Ayer District Court, yes.

[12] Q And what happened at the Ayer District Court?

[13] A The clerk told us we couldn't take out a [14] restraining order because I did not live in the area.

[15] Q Okay. And what happened next?

[16] A I don't remember. I know I came back here. But I [17] don't know if I came back inside or just went home. I don't [18] remember.

[19] Q Now, after you were denied by Ayer District Court, [20] do you remember speaking to anyone here at the facility?

[21] A I don't remember.

[22] Q But your memory is that you drove out to Ayer [23] District Court. They said you couldn't get one there. Was [24] Holly with you at that point?

[25] A Yes she was.

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[1] Q She was. So she drove you back here to Devens and [2] you left from here?

[3] A Yes.

[4] Q Did you leave in your own vehicle or did someone [5] pick you up?

[6] A I took my own vehicle.

[7] Q And where were you living at that time?

[8] A In Malden. On Chester Street.

[9] Q Okay. How long a commute is it from here to [10] Malden?

[11] A About an hour. Fifty-three miles, something like [12] that.

[13] Q Did you go the hospital at all?

[14] A No.

[15] Q Okay. Did you seek any treatment at all for the [16] bruise you described on your leg?

[17] A No.

[18] Q Did you ever take any pictures of the bruise?

[19] A The state police did.

[20] Q They did. And when did that happen?

[21] A It was a couple of days later but I don't know how [22] many days. It wasn't that day.

[23] Q So it wasn't that day?

[24] A No.

[25] Q Okay. Can you describe what happened next at

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- [1] least with regards to this incident?
- [2] A Well I drove to my aunt and uncle's house from [3] here, and they had called the Malden Police to find out what [4] we needed to do to get a restraining order.
- [5] Q Your aunt and uncle did?
- [6] A Yes they did.
- [7] Q Okay. What are your aunt and uncle's names?
- [8] A Catherine and Eddie Sweeney.
- [9] Q Okay. And where do they live?
- [10] A They live on Adams - 180 Adams Street, Malden. [11] 28 Adams Street.
- [12] Q Okay. So they called the Malden Police you said?
- [13] A Yes they did.
- [14] Q Okay. And did they relay to you what the Malden
- [15] Police told them?
- [16] A Actually, a police officer came by the house.
- [17] Q Okay. And what happened?
- [18] A The police officer came by and I had described [19] what happened. And he called the Massachusetts State Police [20] and spoke to the trooper that was involved, that I gave a [21] statement to.
- [22] Q So he made that call from your aunt and uncle's
- [23] home?
- [24] A On his cell phone.
- [25] Q On his cell phone?

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- [1] A Yes.
- [2] Q And how did he get the trooper's name who was at
- [3] Mirror Lake?
- [4] A I told him.
- [5] Q Okay.
- [6] A I just don't remember it now. But I remembered it [7] then.
- [8] Q Do you remember how you remembered the trooper's
- [9] name from Mirror Lake from the time you saw him that morning
- [10] to later on that evening with this Malden police officer?
- [11] A No I don't. I don't remember how I remembered it.
- [12] Q Did the trooper give you his name at Mirror Lake?
- [13] A I don't remember.
- [14] Q Okay. All right. So this officer makes a call to [15] the state trooper and what happens next?
- [16] A That's the thing. I know he called the state [17] trooper but I don't know if they had to call a judge or not [18] to get an emergency restraining order for twenty-four hours. [19] But I believed that's what happened.
- [20] Q Okay.
- [21] A But I'm not sure. But I was granted a twenty-four
- [22] hour emergency restraining order.
- [23] Q Do you remember what the order was?
- [24] A I don't understand the question.
- [25] Q What were the restrictions on the order?

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- [1] A Oh. He had to stay so many feet away from me but [2] I don't remember the exact--
- [3] Q He being?
- [4] A --David Reynoso had to stay a certain amount of [5] feet away from me. I don't remember the feet.
- [6] Q Okay.
- [7] A No contact. I don't remember. That's all I [8] remember.
- [9] Q Between the time that you saw Mr. Reynoso at the
- [10] lake up to this point, had you had any contact with him?
- [11] A From?
- [12] Q From when he left the lake until this point where [13] you are at your aunt and uncle's home the same day?
- [14] A No, no I didn't.
- [15] Q Did you attempt to contact him at all in that
- [16] timeframe?
- [17] A Not that I can remember. No.
- [18] Q So you didn't try to call him on his cell phone or
- [19] anything like that?
- [20] A No. I didn't know he had a cell phone at the [21] time.
- [22] Q Did you try to call him at his mother's phone or
- [23] anywhere?
- [24] A No.
- [25] Q Do you know if he tried to contact you in that

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- [1] timeframe?
- [2] A No he didn't.
- [3] Q All right. So after, who told you that you [4] received this emergency restraining order?
- [5] A The officer who was at my aunt and uncle's house
- [6] explained to me what an emergency restraining order was.
- [7] Q Okay.
- [8] A So he told me.
- [9] Q Okay. So what happened next after that?
- [10] A They called my cousin to talk to me and she [11] brought me over my sister's house and let them know what was [12] going on.
- [13] Q What's your cousin's name?
- [14] A Linda Sweeney. She's Director of Victim Advocate [15] at Billerica Prison.
- [16] Q And so Linda Sweeney drove you to your sister's
- [17] house?
- [18] A Yes. I left my car at my aunt and uncle's.
- [19] Q Okay. And what is your sister's name.
- [20] A Kerri Glinner.
- [21] Q And how do you spell her last name?
- [22] A G-L-I-N-N-E-R.
- [23] Q Kerri?
- [24] A Yes. K-E-R-R-I.
- [25] Q And where does Kerri Glinner live?

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- [1] A At the time she lived in Everett on Chatham Road.
 [2] Q Okay. And what happened next?
 [3] A I just, there was a lot of people there talking to [4] me about what was going on. My family. And when I calmed [5] down a little, I don't know what time it was when I calmed [6] down, I know my cousin drove me back to get my car so I [7] could drive home to my house.
 [8] Q When you say your cousin, you mean Linda?
 [9] A Yes. Linda Sweeney.
 [10] Q You said there were a lot of people at Kerri's [11] house at that time?
 [12] A Yes.
 [13] Q Who else was there besides you, Kerri and Linda?
 [14] A Her husband, David Glinner.
 [15] Q Okay.
 [16] A Her daughter, Delaney. Her son, Kyle. Both her
 [17] mother and father-in-law, Eileen and Mark Glinner. That's
 [18] all that I can remember.
 [19] Q How old was Delaney at that time? Do you
 [20] remember?
 [21] A Delaney probably about five or six.
 [22] Q And how old was Kyle at that time?
 [23] A I don't even think he was a year old yet.
 [24] Q So after Linda drove you back to your aunt and
 [25] uncle's house to get your car, what did you do next?

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- [1] A I drove to my house where my parents live.
 [2] Q And what are your parents' names?
 [3] A John and Dotty O'Donnell. Dorothy.
 [4] Q And what happened next?
 [5] A My mother was at work. My dad was home and I told
 [6] him what had happened. And then I, I don't know, I told
 [7] him what happened and sat with him until it was time for my
 [8] mother to be picked up from work. My dad usually drives and
 [9] picks my mother up because he's retired. And I picked my
 [10] mother up at work and told her what happened.
 [11] Q Do you remember what time that was?
 [12] A She worked 3 to 11 so it was about 11.
 [13] Q Eleven at night?
 [14] A Yes.
 [15] Q Okay. And what happened next?
 [16] A I went home and talked to my parents for a little
 [17] while and went to bed.
 [18] Q Okay. Do you remember what happened the next day
 [19] now? On April 9, 2002? Did you do anything with regards to
 [20] your employment here at Devens or this incident with Mr.
 [21] Reynoso?
 [22] A I think I went to I think I had to go to court [23] that day.
 [24] Q Okay.
 [25] A For the ten day restraining order.

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- [1] Q And what court did you go to?
 [2] A The Malden District Court. I'm not sure if it was [3] that day or the day after.
 [4] Q Okay. And when you got to Malden District Court, [5] what did you do?
 [6] A I told the judge what had happened?
 [7] Q Okay. So there was a hearing?
 [8] A Yes.
 [9] Q Did you have anyone representing you at the
 [10] hearing?
 [11] A At that time, I had my cousin stand with me while [12] I told the judge what had happened.
 [13] Q Your cousin?
 [14] A Linda Sweeney.
 [15] Q And what did you tell the judge?
 [16] A Just that he had assaulted me on April 8.
 [17] Q Was Reynoso there at the hearing?
 [18] A At that hearing, no.
 [19] Q Okay. And what did the judge tell you?
 [20] A She or was it a he? I don't remember if it was a [21] he or she. The judge granted me a ten day restraining [22] order.
 [23] Q Did you have to fill out any paperwork when you
 [24] went to the District Court that day?
 [25] A I don't recall.

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- [1] MR. WILMOT: I'm going to show you this document [2] that is marked as Exhibit 26.
 [3] (DOJ Exhibit No. 26 was marked for [4] identification.)
 [5] BY MR. WILMOT:
 [6] Q Do you recognize that document?
 [7] A Yes I do.
 [8] Q Can you identify what it is for me please?
 [9] A It's a protection from abuse, a restraining order
 [10] against David Reynoso.
 [11] Q It's a what, I'm sorry?
 [12] A A restraining order against David Reynoso.
 [13] Q Let me just take a look at that.
 [14] Now this appears, there's handwriting on this [15] document, is that your handwriting?
 [16] A Yes it is.
 [17] Q And this is your signature at the bottom here?
 [18] A Yes it is.
 [19] Q And it's dated, what's the date on there?
 [20] A April 9, 2002.
 [21] Q On the top of this it says complaint for [22] protection from abuse, do you see that?
 [23] A Yes.
 [24] Q Do you remember filling out a document like this
 [25] with the information requesting that this order be issued?

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- [1] A I don't remember that.
 [2] Q Okay. And your memory is that the judge in that
 [3] hearing granted a ten day restraining order?
 [4] A Yes.
 [5] Q What happened after that hearing?
 [6] A I don't remember. That day, you mean?
 [7] Q Yes.
 [8] A I know I called work and let them know but I don't
 [9] know what my actions were.
 [10] MR. WILMOT: Okay. I'm going to show you this
 [11] document which is marked as 27.
 [12] (DOJ Exhibit No. 27 was marked for [13] identification.)
 [14] BY MR. WILMOT:
 [15] Q Do you recognize that document?
 [16] A Yes.
 [17] Q And what is that?
 [18] A Abuse Prevention Order.
 [19] Q And do you see any date on that document?
 [20] A No I don't.
 [21] Q Take a look at the second page.
 [22] A Okay. I recognize it.
 [23] Q Is there a date on that document?
 [24] A Yes.
 [25] Q And what is the date?

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- [1] A April 9, 2002 and April 23, 2002.
 [2] Q Okay. So April 9, as you just described, is the [3] day that
 you had a hearing, correct?
 [4] A Yes.
 [5] Q And you said that on that day the judge issued you [6] a
 ten day restraining order?
 [7] A Yes.
 [8] Q The document we are looking at which is marked
 [9] Exhibit 27, I think. Could this be the restraining order [10] that
 you were referring to?
 [11] A Yes.
 [12] Q Okay. So does that change your testimony then [13] that
 the document marked as No. 26 is the restraining order?
 [14] A I thought they were the same thing but I guess [15] not.
 [16] Q Well looking at Exhibit 26 for a moment. At the [17] top it
 says, I don't know if it's cut out or what it is, it [18] says page 2.
 [19] Do you believe that there was another document [20] that
 accompanied this document marked as Exhibit 26?
 [21] A I don't know.
 [22] Q Okay. If you could turn to the second page of 27. [23] If
 you look at where it say date of order 4/9/02.
 [24] A Okay.
 [25] Q And it says time of order 10:20 a.m. Does that

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- [1] sound about right that your hearing was in the morning
 [2] around or about 10:20 in the morning?
 [3] A Yes.
 [4] Q Okay. Do you see where it says expiration date of
 [5] order 4/23/02?
 [6] A Yes.
 [7] Q Is that your understanding that the restraining [8] order
 was for that timeframe from the 9th of April to April [9] 23, 2002?
 [10] A That's my understanding, yes.
 [11] Q Okay. So it was a little longer than ten days?
 [12] A Yes.
 [13] Q Okay. Now did you you said you called or you [14] think
 you may have called the Bureau to let them know that a
 [15] restraining order was issued?
 [16] A I think, yes.
 [17] Q Do you have a memory as to who you spoke with?
 [18] A No.
 [19] Q Okay. You just have a memory of letting them know
 [20] that there was a restraining order?
 [21] A Yes.
 [22] Q Did you send the restraining order to the Bureau [23] at
 that time?
 [24] A I don't remember.
 [25] Q Do you remember if that was on the 9th as well,

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- [1] the same that you, that the order was issued?
 [2] A I believe, no, I definitely spoke to somebody on [3] the 9th,
 but I don't know if I sent out the restraining [4] order on the 9th.
 [5] Q Okay.
 [6] A The ten day restraining order.
 [7] Q Do you have a memory of speaking with Steve Gagnon
 [8] at some point?
 [9] A No. Fernando Messer.
 [10] Q Your remember speaking with Fernando Messer?
 [11] A Yes.
 [12] Q Do you remember when you first spoke with him?
 [13] A April 9th, the day after.
 [14] Q The day after. Can you describe your conversation
 [15] with Fernando Messer?
 [16] A I think he said that the warden approved admin [17] leave
 for me, a few more days or something, but I don't [18] remember
 the exact, it wasn't a long conversation.
 [19] Q Okay. And did you speak with anyone else, other
 [20] than Fernando?
 [21] A I don't remember.
 [22] MR. WILMOT: Okay. I'm going to show you what is
 [23] marked as Exhibit 28.
 [24] (DOJ Exhibit No. 28 was marked for [25] identification.)

BSA

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[1] BY MR. WILMOT:
 [2] Q Do you recognize that document?
 [3] A Yes I do.
 [4] Q Can you identify what it is?
 [5] A It is a referral to an Employees Assistance [6] Program from my supervisor Steve Gagnon.
 [7] Q And what's the date of this document?
 [8] A April 10, 2002.
 [9] Q Do you remember when you received this?
 [10] A I don't.
 [11] Q Do you remember how you received it?
 [12] A I don't.
 [13] Q Do you remember if it was given to you in person [14] or by mail?
 [15] A I don't remember.
 [16] Q Do you remember having any discussions at all with [17] Steve, is it Gannon or Gagnon?
 [18] A Gagnon.
 [19] Q Gagnon. Do you remember having a conversation [20] with him about the Employees Assistance Program?
 [21] A No.
 [22] Q No. At any point?
 [23] A I remember the letter I got, but I just don't know [24] how I received it or when I received it.
 [25] Q Do you remember talking about the Employees

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[1] Assistance Program with Steve Gagnon?
 [2] A No.
 [3] Q Okay. Not at any point?
 [4] A I don't remember.
 [5] Q Okay.
 [6] THE WITNESS: Could I take a break to use the [7] lady's room?
 [8] MR. WILMOT: Absolutely.
 [9] MS. MCDONALD: Actually are we going to break for [10] lunch?
 [11] Mr. WILMOT: What time is it?
 [12] MS. MCDONALD: It's 12:30.
 [13] (Whereupon, at 12:30 p.m., a luncheon recess was [14] held.)

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[1] AFTERNOON SESSION
 [2] (1:20 p.m.)
 [3] BY MR. WILMOT:
 [4] Q You testified earlier that you were on admin leave [5] following the incident April 8, 2002?
 [6] A Yes.
 [7] Q How long were you on admin leave for?
 [8] A I think it was from when I left on Monday and [9] Tuesday, Wednesday, Thursday and Friday.
 [10] Q So the remainder of that week?
 [11] A Yes.
 [12] Q Okay. And when did you return back to work?
 [13] A That following Monday.
 [14] Q Before returning to work the following Monday, did [15] you speak with your supervisor or anyone else within BOP [16] concerning your return?
 [17] A I believe so, yes.
 [18] Q Do you remember who?
 [19] A Fernando Messer is the only one I remember talking [20] to that week.
 [21] Q And what did you talk about with Fernando?
 [22] A At first, I was granted two days admin leave.
 [23] Q Okay.
 [24] A And then when I spoke with him, he told me I was [25] approved for the rest of the week. I remember him telling

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[1] me that.
 [2] Q Did you ask for that leave?
 [3] A No.
 [4] Q So you were told by Fernando that you would be put [5] on leave for the rest of the week?
 [6] A Yes.
 [7] Q When were you told that?
 [8] A I don't remember. It was during that week. I [9] just don't remember which day.
 [10] Q You said you were initially put on two days [11] administrative leave, correct?
 [12] A Correct.
 [13] Q So that would take you to Wednesday, correct?
 [14] A No I think Tuesday. The remainder of Monday was [15] admin leave.
 [16] Q Okay.
 [17] A And then that Tuesday.
 [18] Q All right. So not two in addition to that Monday [19] but to Monday until Tuesday?
 [20] A I believe so, yes.
 [21] Q Okay. So you were planning to come back to work [22] on Wednesday?
 [23] A Yes I was.
 [24] Q And you were ready to return to work on Wednesday?
 [25] A No I wasn't.

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- [1] Q And why weren't you?
 [2] A I was a mess.
 [3] Q Okay.
 [4] A I was in a fog.
 [5] Q Did you express that to Fernando?
 [6] A Yes I did. Because I was crying on the phone to [7] him, so yes.
 [8] Q Do you remember when that conversation was?
 [9] A I don't. I want to say it was that Tuesday, the [10] day that I got the ten day restraining order. I know I [11] spoke to him that day but I'm not positive that was.
 [12] Q So if you were to return to work on Wednesday, do [13] you have a memory of calling Fernando the day of that you [14] were going to come to work and telling him that you were a [15] mess, or do you think you had that conversation before [16] Wednesday?
 [17] A Had that conversation before Wednesday.
 [18] Q Okay. So that conversation with him was either [19] Monday or Tuesday?
 [20] A Yes.
 [21] Q Okay. And during that conversation was when he [22] told you that he put you on admin leave for the rest of the [23] week?
 [24] A Yes.
 [25] Q Did you object to that?

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- [1] A No.
 [2] Q Were you pleased with being on leave for the rest [3] of the week?
 [4] A Yes.
 [5] Q And other than that conversation with Fernando, [6] did you have any other contact with any of your supervisors [7] or HR here at BOP?
 [8] A I don't remember.
 [9] Q Okay. So you were planning to return the [10] following Monday?
 [11] A Yes.
 [12] Q Which would have been April 15th?
 [13] A 16th is it? April 15th, yes.
 [14] Q 15th. Okay. Prior to your returning on the 15th, [15] did you speak with anyone that led them to inquire as to [16] what the BOP was doing?
 [17] A Yes.
 [18] Q You did. And who did you speak to?
 [19] A Fernando Messer.
 [20] Q Okay. So you had a conversation with him either [21] Monday or Tuesday and then you had another conversation with [22] him or just the same conversation?
 [23] A I had another conversation with him on that [24] Friday.
 [25] Q Okay. And do you remember what you said to him?

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- [1] A I don't remember the whole - I just remember him [2] telling me I had to be in work Monday from 6:00 to 2:30.
 [3] Q Okay.
 [4] A In the mailroom.
 [5] Q And what were your hours before he told you that?
 [6] A 6:30 to 3:00 that month.
 [7] Q Okay. Now you say that month, did your schedule [8] change—
 [9] A Mondays our schedule changes.
 [10] Q —from time to time?
 [11] Okay. Remember to wait for me to finish my [12] question before you begin to answer.
 [13] A Okay.
 [14] Q So you're saying that monthly your schedule would [15] change?
 [16] A Yes.
 [17] Q And how did it change month to month?
 [18] A It would, the hours are 6:30 to 3:00. 7:30 to [19] 4:00 and I'm not sure there's a 9:30 to 6:00, but I'm not [20] sure when that started. You know, if it was during that [21] time or it started a year later. But I know there's a 9:30 [22] to 6:00.
 [23] Q And you said 7:30 to 4:00, is that 7:30 p.m. to [24] 4:00 p.m.?
 [25] A 7:30 a.m. to 4:30 p.m.

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- [1] Q Okay. And the 9:30 to 6:00. That's 9:30 a.m. to [2] 6:00 p.m.?
 [3] A Yes.
 [4] Q Okay. In Systems Management, is that right? I'm [5] sorry, what's your department name?
 [6] A Inmate Systems Management.
 [7] Q Okay. In your department, you never had to work [8] overnight or anything like that?
 [9] A No.
 [10] Q So these three shifts that you described, are the [11] three shifts that you would have to work in your department?
 [12] A Yes.
 [13] Q Okay. And from month to month, you would shift [14] between these three different shifts that you just [15] described?
 [16] A Yes.
 [17] Q Okay. All right. So you were told by Fernando [18] that your hours would be 6:00 to 2:30?
 [19] A Yes.
 [20] Q Did he tell you anything else?
 [21] A Not that I can recall.
 [22] Q Did he tell you why he was doing that?
 [23] A Not that I can recall.
 [24] Q Did he tell you or did you ask him about Reynoso?
 [25] A Not that I remember.

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[1] Q Do you remember if he told you that he was [2] changing Officer Reynoso's schedule as well?

[3] A I don't remember.

[4] Q Okay. And you said you don't remember if you [5] asked?

[6] A No, I don't remember.

[7] Q Do you remember if you asked him why your schedule [8] was being changed?

[9] A I don't remember.

[10] Q Did he object to your schedule being changed to [11] 6:00 a.m. to 2:30 p.m.?

[12] A In reference to Fernando Messer?

[13] Q Yes.

[14] A I don't remember. I don't think so but I don't [15] remember.

[16] Q Okay. So what happened next after your [17] conversation with Fernando? Your next contact with someone [18] here at the BOP?

[19] A I was at work that following Monday.

[20] Q Okay. And where did you report into that [21] following Monday?

[22] A I honestly don't remember. I don't know if I came [23] in and got the mail and brought it out to the outside [24] mailroom—

[25] Q When you say came in, is that the main building?

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[1] A It's the main building, yes. But I don't remember [2] if that's what it was.

[3] Q Okay. Would that be - how would you typically [4] start your day?

[5] A I would come into the main institution. I would [6] collect inmate outgoing mail and stack outgoing mail and [7] gather it all up and meet our inmate orderly outside the [8] main institution, and then he would drive me to the [9] mailroom. The outside mailroom.

[10] Q And that's how you would start each day typically?

[11] A Yes. When I was the early person.

[12] Q Okay. And when you say you were the early person, [13] you mean someone who was working in this 6:30 a.m. shift?

[14] A Yes.

[15] Q Okay. And from where would you gather the inmate [16] and staff outgoing mail?

[17] A The inmate legal mail, outgoing legal mail, is [18] located all of the way down the other end of the compound, [19] near food service—

[20] Q Okay.

[21] A —which is about a quarter mile down. And the [22] regular inmate mail is located in the main building. And [23] the staff mail is located in the inside mailroom. And I [24] would gather that all up and go outside.

[25] Q When you're in the main building, do you have to

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[1] go through Control to get to those areas that you just [2] described in the building?

[3] A Yes.

[4] Q You did. Okay. So that morning, you remember [5] coming into the main building and picking up the inmate and [6] staff outgoing mail?

[7] A I don't remember if I did that. That would be my [8] duties, but I don't remember.

[9] Q Okay. And do you remember speaking with anyone [10] when you came in that morning? Any supervisors or anyone [11] from HR?

[12] A No.

[13] Q Did you speak with your supervisor? No?

[14] A No. They're not in that early.

[15] Q At some point during that day, did you speak to [16] one of your supervisors?

[17] A I don't remember.

[18] MR. WILMOT: Okay. I am going to show you this [19] document here, which is marked as Exhibit 29.

[20] (DOJ Exhibit No 29 was marked for [21] identification.)

[22] BY MR. WILMOT:

[23] Q Do you recognize that document?

[24] A Yes.

[25] Q Can you identify it for me please?

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[1] A It's a letter from the warden to me saying what my [2] hours are that I'm assigned to as of April 15th. If I have [3] any questions, to contact Human Resources Manager, Cindy [4] Lord.

[5] Q Okay. At the bottom of that document is a [6] signature. Can you read that signature?

[7] A Colleen O'Donnell.

[8] Q Is that your signature?

[9] A Yes.

[10] Q Is it dated?

[11] A Yes.

[12] Q What's the date?

[13] A April 15, 2002.

[14] Q Do you have a memory signing that document?

[15] A Yes.

[16] Q Do you remember who presented the document to you?

[17] A Yes.

[18] Q Who gave you that document to sign?

[19] A Lois Swiderski.

[20] Q Lois Riderski?

[21] A Swiderski, yes.

[22] Q Swiderski. Can you spell her last name?

[23] A I believe it's S-W-I-R-D-E-S-K-I.

[24] Q And who is Lois Swiderski?

[25] A She was the Assistant Human Resources Manager.

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- [1] Q Okay. And how did you know to meet with Ms.
 [2] Swiderski that day?
 [3] A She came over to the mailroom.
 [4] Q Okay. Do you know what time?
 [5] A No.
 [6] Q And when she came into the mailroom, where did you
 [7] discuss that letter?
 [8] A There's a little lunch area that you can shut the [9] door
 and there's nobody in that area if you shut the door.
 [10] Q Okay. Was anyone else in that meeting with you [11] and
 Lois?
 [12] A No.
 [13] Q Okay. And what did Lois tell you?
 [14] A She just actually handed me the letter and told me [15] to
 read it and sign it.
 [16] Q Okay. Did you ask her any questions?
 [17] A Yes.
 [18] Q What did you ask her?
 [19] A I told her first that I didn't want to sign it [20] because I
 didn't think that was appropriate.
 [21] Q And why was that?
 [22] A Because I didn't do anything wrong so I shouldn't
 [23] have to, I shouldn't have to sign it.
 [24] Q You told her that you didn't do anything wrong and
 [25] you shouldn't have to sign it?

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- [1] A Yes.
 [2] Q What did you believe this letter to be?
 [3] A Changing my hours.
 [4] Q Did you believe it was a form of discipline?
 [5] A Yes.
 [6] Q And why did you believe that?
 [7] A Because they changed my hours.
 [8] Q So because they changed your hours from 6:30 a.m.
 [9] starting time, to 6:00 a.m. starting time, you thought that
 [10] was a form of discipline?
 [11] A Yes.
 [12] Q Okay. Anything else that you're basing that
 [13] conclusion on other than the fact that your hours changed?
 [14] A That day, no. It was just because my hours
 [15] changing.
 [16] Q Okay. So because your hours changed, you felt [17] that
 you were being disciplined?
 [18] A Yes.
 [19] Q And what was her response to that statement?
 [20] A I remember saying I don't want to sign and she [21] said
 why not? And I explained and she said oh no, it's not [22] that, just
 sign it or something, I don't remember the whole [23] conversation.
 [24] Q Okay.
 [25] A I just remember being a little startled by it.

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- [1] Q Now you said Fernando Messer told you that on
 [2] Friday, right? That your hours were being changed to these
 [3] hours?
 [4] A Yes.
 [5] Q So why were you startled come Monday?
 [6] A Seeing it in writing from Human Resources I felt [7] as
 though it was a discipline instead of Fernando just [8] telling me
 hey, you're coming in 6:00 on Monday. 6:00 to [9] 2:30.
 [10] Q Okay. Did the words discipline or anything like [11] that
 appear in that letter?
 [12] A Yes.
 [13] Q Can you point that out to me?
 [14] A My schedule being changed. I feel as though it's
 [15] discipline.
 [16] Q Okay. Other than that, anything in that letter [17] that
 indicates that you're being disciplined?
 [18] A Yes.
 [19] Q And what's that?
 [20] A The overtime.
 [21] Q Can you elaborate on that? What do you mean?
 [22] A In the letter it says if you plan to work outside [23] of
 these hours for any reason, in parentheses overtime, you [24] must
 notify your supervisor prior to working and that's [25] nobody else
 in the institution has to do that, so I don't

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- [1] understand why I had to do that.
 [2] Q Okay. Before the date of this letter or before [3] April 15,
 2002, had you informed the Bureau that you had [4] obtained a
 restraining order against David Reynoso?
 [5] A Yes.
 [6] Q And what were Officer Reynoso's hours or duty [7] hours
 before your restraining order against him?
 [8] A I believe 8:00 a.m. to 4:00 p.m.
 [9] Q Okay. And he worked in the main building, [10] correct?
 [11] A Yes.
 [12] Q And did Lois explain at all why they were changing
 [13] your hours or not allowing as you're saying to do overtime?
 [14] A I don't recall.
 [15] Q Do you remember if she mentioned Officer Reynoso
 [16] at all in that conversation?
 [17] A I don't remember.
 [18] Q If you look at the third paragraph of this letter, [19] It says
 there you are not to contact the plaintiff (in [20] person or
 telephonically) or associate with David Reynoso, [21] Intelligence
 Officer at any time. Do you see that?
 [22] A Yes.
 [23] Q Did you feel that was a form of discipline?
 [24] A I don't remember at that time if I did.
 [25] Q Okay. Looking at it now, do you feel that was a

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- [1] form of discipline?
 [2] A Yes.
 [3] Q To restrict you from contacting Officer Reynoso?
 [4] A Yes.
 [5] Q And why do you believe that?
 [6] A Because I didn't do anything wrong and so I [7] shouldn't have any type of restriction on me whatsoever.
 [8] Q Okay. But you did have a restraining order [9] against him, right?
 [10] A Yes.
 [11] Q So it's your belief that if he was restricted from [12] contacting you, you shouldn't be restricted from contacting [13] him?
 [14] A Yes.
 [15] Q Okay. And did Lois say anything else in that [16] meeting?
 [17] A I don't remember.
 [18] Q So you did ultimately sign the letter, correct?
 [19] A Correct, yes.
 [20] Q And did you do so in that meeting with Lois?
 [21] A Yes.
 [22] Q And why did you decide to finally sign the letter [23] but at first you didn't want to?
 [24] A I don't - I was in a fog. I don't know why I [25] signed it afterwards. I just signed it.

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- [1] Q Okay. And you gave it back to Lois at that time?
 [2] A I believe so. She was right in front of me when I [3] signed it so.
 [4] Q Okay. And do you remember if she said to you this [5] isn't a form of discipline?
 [6] A I don't remember. No.
 [7] Q Okay. I think you said earlier that when you [8] first rejected to signing it, you said that because you [9] thought or you said that you didn't do anything wrong.
 [10] I believe you said that her response was no, it's [11] nothing like that. What did you mean by that?
 [12] A That she was saying that it's not - this isn't a [13] discipline for me.
 [14] Q Okay. And were you aware at that time that [15] Officer Reynoso's schedule was changed?
 [16] A I don't remember.
 [17] Q Did you become aware of that at some point?
 [18] A Yes.
 [19] Q When did you become aware of that?
 [20] A I don't remember.
 [21] Q Was it before you filed this lawsuit?
 [22] A Yes.
 [23] Q And what is your understanding as to what happened [24] to Officer Reynoso's schedule?
 [25] A That he had to work 4:00 to midnight.

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- [1] Q Okay.
 [2] A 4 p.m. to midnight.
 [3] Q And what is your understanding as to why his [4] schedule was changed?
 [5] A Why his schedule was changed?
 [6] Q Any understanding as to why the Bureau changed [7] Officer Reynoso's schedule from 4 p.m. to midnight?
 [8] A Because of the restraining order.
 [9] Q Okay. Let me bring your attention to your [10] Complaint again. Paragraph 11.
 [11] There you say, "when plaintiff returned to work, [12] she learned that her hours and duties had been changed and [13] she was reassigned to the mailroom." Do you see that?
 [14] A Yes.
 [15] Q You, in fact, learned that your hours and duties, [16] your hours were changed on Friday from Fernando Messer, [17] correct?
 [18] A Correct, yes.
 [19] Q So this sentence here is inaccurate, isn't that [20] correct?
 [21] A Yes.
 [22] Q You also say here that your duties were changed.
 [23] Do you see that?
 [24] A Yes.
 [25] Q What duties did you have prior to April 15th that

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- [1] you longer had on the 15th or did not have before the 15th [2] and now had?
 [3] A I was allowed to go anywhere in the institution. [4] I was allowed to work overtime with my department when we [5] had buses come in and I no longer could do that.
 [6] Q Okay, but this says duties. Would those be [7] duties?
 [8] A Yes.
 [9] Q When we looked earlier at your position statement.
 [10] Do you remember that?
 [11] A Yes.
 [12] MR. WILMOT: Want to pull that out for me please?
 [13] MS. MCDONALD: Do you mean her job description?
 [14] MR. WILMOT: Yes. Her job description.
 [15] MS. MCDONALD: Is it over there?
 [16] MR. WILMOT: I think you just have to go a little [17] bit further.
 [18] MS. MCDONALD: Towards the back.
 [19] THE WITNESS: Oh, yes.
 [20] MR. WILMOT: Okay.
 [21] BY MR. WILMOT:
 [22] Q When you reviewed Exhibit No. 24, you told me that [23] encompassed your duties and responsibilities as an ISO. Do [24] you remember that testimony?
 [25] A Yes I remember it.

BSA

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- [1] Q In that document, does that describe that working
 [2] overtime as one of your duties and responsibilities as an
 [3] ISO?
 [4] (Witness reviews document.)
 [5] A No.
 [6] Q It does not?
 [7] A No. Oh, I'm sorry. I didn't realize the last [8] page.
 [9] Q Okay.
 [10] A No.
 [11] Q And did you see anywhere in that document it
 [12] stating that one of your duties and responsibilities as an
 [13] ISO is to go anywhere on the compound as you just
 described?
 [14] A Yes.
 [15] Q And where is that?
 [16] A Responding to emergencies.
 [17] Q And what page is that?
 [18] A The second page.
 [19] Q Okay. And where on the second page are you
 [20] looking?
 [21] A The last paragraph.
 [22] Q Okay. Can you read that section that you're [23] talking
 about?
 [24] A Yes.
 [25] Q Or a portion of this document that you're talking

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- [1] about?
 [2] A "Specific correctional responsibilities include [3] custody
 and supervision of inmates, responding to [4] emergencies and
 institution disturbances, participating in [5] fog and escape patrols
 and assuming correctional officer [6] post when necessary."
 [7] Q Okay. So it's your testimony that this sentence [8] is
 saying that one of your duties and responsibilities is to [9] go at
 various locations on the compound?
 [10] A Yes.
 [11] Q Okay. From when your hours changed on the 15th,
 [12] have any of these scenarios as described in that sentence
 [13] occurred?
 [14] A Yes.
 [15] Q So there have been emergencies or disturbances at
 [16] the institution where someone from your department was
 [17] needed and you were not able to respond?
 [18] A Fog watch. No emergency. But fog watch.
 [19] Q So there was a fog watch. What's a fog watch?
 [20] A The institution gets really foggy and the inmates [21] are
 not allowed outside their, out of their cells or [22] whatever unless
 there are people surrounding the perimeter [23] of the prison to
 watch them go back and forth.
 [24] Q And so you were unable to participate in that?
 [25] A Actually I did. I did participate in that.

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- [1] Q Okay.
 [2] A I was the only person. So I was ordered on fog [3] watch.
 [4] Q Okay. Other than the fog watch, is there anything [5] else
 in this sentence that you were precluded from doing [6] after April
 15, 2002?
 [7] A Not that I'm aware of, no.
 [8] Q Okay. So is it fair to say that your duties you [9] described
 to me that the duties you felt were changed were [10] one, the
 ability to go to different places in the compound. [11] And I believe
 the second one was working overtime.
 [12] Is it fair to say first that overtime is not a [13] duty or
 responsibility of an ISO?
 [14] A No it is not fair to say.
 [15] Q Didn't you just read this document and told me it [16] is
 no where listed in here as a duty and responsibility?
 [17] A Yes. It's not written in here but it's required.
 [18] Q Working overtime is required of an ISO?
 [19] A Yes.
 [20] Q Okay.
 [21] A When special buses come in.
 [22] Q Okay. All right. Are you familiar with the [23] disciplinary
 procedures within the agency?
 [24] A I'm familiar with them, yes.
 [25] Q What are typically the steps before you are given

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- [1] discipline?
 [2] A I believe there is a warning. You sit down with [3] your
 supervisor and you talk, is a warning. There is a [4] written warning
 after that. And I don't know if there is an [5] investigation after that,
 or exactly what that is.
 [6] Q And then what, after the investigation, what [7] happens, if
 there is one?
 [8] A The investigator would report his findings to the
 [9] warden. And the warden would make a decision on what
 [10] disciplinary, you know, what discipline should be given.
 [11] Q Are there circumstances where those steps would
 [12] be, the initial steps would be skipped and the warden could
 [13] go right to disciplining an employee?
 [14] A I don't know.
 [15] Q Did any of those steps you described occur prior [16] to
 your receiving a letter you signed on April 15, 2002?
 [17] A (No verbal response.)
 [18] Q Were you received a warning, an investigation, [19] etc.,
 as you described?
 [20] A Before?
 [21] Q Before you received the letter that you signed on
 [22] April 15, 2002. The letter that you had stated was a form
 [23] of discipline. Did any of the steps that you just described
 [24] happen before you received that letter on April 15, 2002?
 [25] A No.

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[1] Q Okay. Turning back to your Complaint. Paragraph [2] No. 11. That second sentence says Reynoso's duties and [3] assignment remain the same. Do you see that?

[4] A Yes.

[5] Q Is that a true statement?

[6] A Yes.

[7] Q So his assignment did not change?

[8] A No.

[9] Q And his duties did not change?

[10] A Not that I know of.

[11] Q Okay. His hours did change though, correct?

[12] A Yes.

[13] Q Okay. Your next sentence in 12 says "in addition [14] to changes in hours and assignment, plaintiff was otherwise [15] objected to unequal terms and conditions of employment based [16] upon her gender." Do you see that?

[17] A Yes I do.

[18] Q How did your assignment change?

[19] A I wasn't allowed to stay for buses that came in [20] with the rest of my coworkers.

[21] Q So your assignment - well, explain to me what an [22] assignment it is, maybe I'm not following you?

[23] A It's basically our job, what we have to do. You [24] know, like you're in the mailroom; you're working 6:00 to [25] 3:30 or whatever, 6:00 to 2:30. You have a bus coming in so

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[1] you do your job in the mailroom and you're assigned to go [2] into receiving and discharge in the main building to help [3] process inmates in.

[4] And so, I had to leave by 3:00 so I wasn't allowed [5] to process inmates in with the rest of my coworkers.

[6] Q Okay. Any other part of your assignment that was [7] changed?

[8] A Yes.

[9] Q And what is that?

[10] A I was told in January 2003 that I would be going [11] back - I would be coming into R&D in the main building by [12] the warden and then I was told a couple of days later that I [13] had to stay out in the mailroom.

[14] Q Okay.

[15] A So it was changed. My rotation was supposed to be [16] R&D in January 2003 and they wouldn't let me come back in.

[17] Q Okay. Now your position at the time was still [18] ISO, correct?

[19] A Correct.

[20] Q All right. And that has not changed at least, [21] correct?

[22] A Correct.

[23] Q Has your grade changed at all?

[24] A Yes. I think I went from a 7-5 to a 7-6.

[25] Q Okay.

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[1] A Like every couple of years you get a step [2] increase.

[3] Q All right. So your grade has increased. Has [4] there been a decrease in your grade?

[5] A No.

[6] Q When you returned on April 15, did your salary or [7] your pay change?

[8] A No.

[9] Q Has there been any decrease in your pay?

[10] A No.

[11] Q Has there been any decrease in your benefits?

[12] A No.

[13] Q Okay. Did you know that Officer Reynoso's [14] overtime was restricted as well?

[15] A No I did not. I don't remember. I can't say for [16] sure.

[17] Q All right. So when you returned on the 15th and [18] you were working this new schedule, did you have any [19] conversations or any discussions at all about Officer [20] Reynoso or your new schedule with any supervisors or anyone [21] from HR?

[22] A I remember Lois Swiderski coming out to the [23] mailroom to discuss my new hours and give me the letter. I [24] don't remember who I spoke to or if I did or I didn't speak [25] to anyone.

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[1] Q Okay. Did you have any interaction with Reynoso [2] after April 15, 2002?

[3] A At work?

[4] Q At work or anywhere else?

[5] A Yes.

[6] Q Can you describe that?

[7] A There was telephone conversations between the two [8] of us.

[9] Q When was the first one?

[10] A The week that I was out on admin leave. After the [11] incident happened.

[12] Q The week?

[13] A April 8.

[14] Q Okay. When was that telephone conversation?

[15] A It was either that Tuesday or Wednesday. I don't [16] remember.

[17] Q Okay. And do you remember if he called you or did [18] you call him?

[19] A A woman called me and he was with this woman.

[20] Q Okay. And he was on the phone?

[21] A Yes.

[22] Q And what did he say?

[23] A Don't listen to a word she's saying. Something [24] like that. Because the woman was telling me that she had [25] been dating Reynoso for awhile. He said don't listen to a

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[1] word she's saying.
 [2] Q She being who?
 [3] A The woman who called me, Danielle Weaver.
 [4] Q So Reynoso was saying to you don't listen to a [5] word Danielle Weaver was saying?
 [6] A Yes.
 [7] Q And what was Danielle Weaver telling you?
 [8] A That they were together since a long time; I don't
 [9] remember the exact dates. But she was seeing him the whole
 [10] time he was seeing me.
 [11] Q And he was telling you to disbelieve the woman?
 [12] A Yes.
 [13] Q And they're both on the phone together at that [14] time you said?
 [15] A He, I think he took the phone from her, they [16] weren't, they were on the same line.
 [17] Q Okay. And what was your response to that phone
 [18] call?
 [19] A I just cried a lot.
 [20] Q Did you speak again that week?
 [21] A That week, no.
 [22] Q Okay. When was the next time you spoke to Officer
 [23] Reynoso?
 [24] A Probably, I don't know the exact date, it was a [25] week or two later. I was already back at work.

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[1] Q Okay. And do you remember what you spoke about
 [2] then?
 [3] A Just he misses me and he's sorry that she called.
 [4] That's all I really remember.
 [5] Q And did he call you?
 [6] A Yes, from a pay phone.
 [7] Q How do you know it's a pay phone?
 [8] A Because I have caller I.D. and it was like this [9] strange number, so I picked it up.
 [10] Q He called you at home?
 [11] A Yes.
 [12] Q And what did you say to him?
 [13] A I really don't remember. It was a lot of crying.
 [14] Q Was he trying to reconcile your relationship?
 [15] A I don't know.
 [16] Q After the 15th, did you ever talk to him about
 [17] reconciling your relationship?
 [18] A I don't remember. We talked about our [19] relationship but I don't know if we talked about [20] reconciling.
 [21] Q Okay. After this phone call from the pay phone, [22] do you remember the next time you spoke with Reynoso?
 [23] A A couple of months had gone by. So I don't - I [24] want to say August, September but I'm not 100 percent sure. [25] I don't know.

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[1] Q What do you remember about that conversation?
 [2] A I really don't - I don't know if I blocked, I [3] really don't remember a lot of the conversations.
 [4] Q Okay. Was that over the telephone?
 [5] A Yes. It was a lot of, like I said, crying.
 [6] Q Did you run into Reynoso at work?
 [7] A Yes.
 [8] Q Have a conversation with him at work?
 [9] A No I ran into him at work.
 [10] Q You did?
 [11] A Yes.
 [12] Q And when was that?
 [13] A I was working overtime and I was leaving the
 [14] institution and he was coming in.
 [15] Q Where were you working the overtime?
 [16] A It was a Custody post. It was a midnight to 8:00
 [17] overtime. 8 a.m. It was something in Custody; I just don't
 [18] recall where it was.
 [19] Q Do you know when this was?
 [20] A No.
 [21] Q Was it in 2002?
 [22] A Yes, I believe so.
 [23] Q Okay. And this was, what day of the week was [24] this?
 [25] A It was a weekend. So Saturday or Sunday. I don't

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[1] know which day though.
 [2] Q Okay. Do you remember generally what month it was
 [3] in 2002?
 [4] A No.
 [5] Q So you ran into him. You said you were leaving [6] and he was coming in. Where did this occur?
 [7] A In the staff parking lot.
 [8] Q Okay. So he was coming into the parking lot?
 [9] A No he was physically walking into the prison and I
 [10] was physically walking out going to my car.
 [11] Q Okay. And what happened when you saw him and he
 [12] saw you?
 [13] A Nothing. He just shook his head.
 [14] Q Did he continue, did he proceed to come inside the
 [15] institution?
 [16] A Yes, that I saw. Yes.
 [17] Q And you walked out?
 [18] A I got in my car.
 [19] Q So did you physically pass each other?
 [20] A Yes.
 [21] Q Okay. Did you exchange any words or anything?
 [22] A No.
 [23] Q After April 15, 2002, did Reynoso ever threaten [24] you in any way?
 [25] A No.

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- [1] Q Other than this incident in 2002, did you ever [2] come into contact, physical contact, with him on the [3] compound?
- [4] A After that incident, the compound? Not that I can [5] remember.
- [6] Q Okay.
- [7] A I mean, I don't remember. Can I run to the ladies [8] room again?
- [9] MR. WILMOT: Sure.
- [10] (Off the record from 2:04 to 2:07 p.m.)
- [11] BY MR. WILMOT:
- [12] Q You mentioned that after April 15, 2002, that [13] Reynoso didn't threaten you again. Did he threaten you [14] prior to that day?
- [15] A Yes.
- [16] Q Can you describe those threats to me?
- [17] A He'd just basically tell me that if I went to the [18] police he would kill me. Kill my family.
- [19] Q He said he would kill you for going to the police [20] about what?
- [21] A He used to hit me a lot and he would tell me that [22] he would kill me.
- [23] Q Now prior to April 15, 2002, when was the last [24] time that he made that type of statement to you?
- [25] A I don't remember.

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- [1] Q Okay. Was it soon before your return back to [2] work?
- [3] A No.
- [4] Q Was it sometime before that?
- [5] A Yes.
- [6] Q How much time?
- [7] A I don't remember but I know it was maybe a month.
- [8] Q A month before you returned back to work?
- [9] A Yeah. Before April 15th, maybe, anywhere within [10] that month.
- [11] Q And what were the circumstances of that discussion [12] when he threatened you?
- [13] A I had gone out with some friends of mine and he [14] got mad and he left that message on my machine. And then I [15] saw him the next day, and it got a little physical. And I [16] threatened to go to the cops again and he said he would kill [17] me.
- [18] Q And so your memory is that occurred the day after [19] the message that you identified earlier?
- [20] A Yes.
- [21] Q What is the date on that message?
- [22] A March 23, 2002.
- [23] Q Okay. So your memory is March 24, 2002 the last [24] time he threatened you or threatened to kill you?
- [25] A Yes, that I can recall. Yes.

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- [1] MR. WILMOT: Okay. I am going to show you what [2] has been marked as Exhibit 30.
- [3] (DOJ Exhibit No. 30 was marked for [4] identification.)
- [5] BY MR. WILMOT:
- [6] Q Do you recognize that document?
- [7] A Yes.
- [8] Q And what is it?
- [9] A It is a memorandum from me to the warden and I [10] carbon copied Steve Gagnon; Robert Lora, EEO counselor, and [11] Mark Shaughnessy who is a chief steward for the union.
- [12] Q Okay. Here it says that you were informed April [13] 8, 2002 David Reynoso was arrested by the Nashua State [14] Police following a violent attack. Do you remember [15] informing the warden that Reynoso was arrested?
- [16] A No.
- [17] Q Do you know whether or not the warden knew Reynoso [18] was arrested by the state police before the date of this [19] memorandum?
- [20] A I don't remember.
- [21] Q Okay. And what's the date on this memo?
- [22] A May 13, 2002.
- [23] Q All right. You also say in this sentence that the [24] attack occurred during your duty free lunch period. Do you [25] see that?

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- [1] A Yes I do.
- [2] Q When do you typically take lunch when you are an [3] ISO working that shift back in April of 2002?
- [4] A Anywhere between say like 10:30 and twelve, [5] depending on what we had ahead of us.
- [6] Q And how long were you at lunch period?
- [7] A Thirty minutes.
- [8] Q Thirty minutes?
- [9] A Yes.
- [10] Q Were you out longer than thirty minutes with [11] Officer Reynoso that day of April 8, 2002?
- [12] A I don't know.
- [13] Q Okay.
- [14] A It happened so quickly that I don't know.
- [15] Q Now the second paragraph says that after this [16] incident you notified the following supervisors that you [17] were concerned with your safety, then you list first [18] Fernando Messer. Do you see that?
- [19] A Yes I do.
- [20] Q Do you remember what your discussion was with Mr. [21] Messer when you described you were concerned with your [22] safety?
- [23] A No I don't.
- [24] Q Do you remember when you had that conversation [25] with him?

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- [1] A No I don't.
- [2] Q Do you have any general memory as to what you said
- [3] to him about your concern of your safety?
- [4] A I don't remember.
- [5] Q Do you have a memory of speaking to Captain
- [6] Bollinger about your concern with your safety?
- [7] A Yes.
- [8] Q And when did that occur?
- [9] A April 8, the day of the incident.
- [10] Q The day of the incident? Okay. And what is your
- [11] memory of what you told him about your concern for your
- [12] safety?
- [13] A I believe I told him that I think he's going to [14] kill me
- for going to the police.
- [15] Q Okay.
- [16] A Or for telling on him. I don't know if it was [17] going to
- the police or telling on him in general.
- [18] Q And you also list here Cynthia Lord, Human
- [19] Resources Manager. What is your memory you told Ms. Lord
- [20] about your concerns of your safety?
- [21] A It was the day of the incident also. She was in [22] the
- meeting with the warden and me when the incident [23] occurred
- and I told them I was scared.
- [24] Q Okay. Did you express to Fernando Messer, Captain
- [25] Bollinger or Cindy Lord other than on April 8, 2002 that you

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- [1] were scared for your safety?
- [2] A I don't remember.
- [3] Q Okay. Next it says that following these [4] discussions,
- you changed my hours to 7 a.m. to 4 p.m., to 6 [5] a.m. to 2:30
- p.m. Do you see that?
- [6] A Yes.
- [7] Q Is that an accurate sentence?
- [8] A I don't believe so.
- [9] Q And what is inaccurate about this sentence?
- [10] A My hours when it occurred, I believe was 6:30 to
- [11] 3:00.
- [12] Q Okay. And the next sentence says to date, this is [13] the
- only action that you have authorized to. And you have [14] in
- quotes "to protect" and then me. Do you see that?
- [15] A Yes.
- [16] Q Why did you put to protect in quotes?
- [17] A I don't know.
- [18] Q Did someone at some point tell you that your hours
- [19] were changed to keep you away from Officer Reynoso?
- [20] A I don't remember.
- [21] Q Do you remember someone at some point telling you
- [22] that the hours were changed to as you put it here, to
- [23] protect you from Officer Reynoso?
- [24] A I don't remember.
- [25] Q Okay. Just a quick question back on the threats

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- [1] made by Officer Reynoso.
- [2] Did he ever threaten you here on the compound?
- [3] A Yes.
- [4] Q And did you ever complain to anyone about that?
- [5] A No.
- [6] Q Can you tell me about the times he threatened you
- [7] here on the premises?
- [8] A When he would see me talking to somebody, some
- [9] guy, he used to threaten me.
- [10] Q And what would he say to you?
- [11] A It's over if you continue to talk to him. He only [12] wants
- to sleep with you. They talk bad about you Colleen. [13] Don't let
- me catch you talking to another guy again. Things [14] like that.
- [15] Q Did he threaten you with any physical harm while
- [16] you were on the compound?
- [17] A I don't recall.
- [18] Q Now you describe a meeting in here with Jerry
- [19] Martinez and Lois Swiderski on April 24, 2002. Do you see
- [20] that there?
- [21] A Yes I do.
- [22] Q Can you describe for me that meeting?
- [23] A I know there was a union representative there. I [24] just
- don't remember who it was. And we went in to discuss [25] what's
- going on basically with my hours being changed. Him

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- [1] still being allowed to have access around the institution
- [2] where I was restricted and they just got - I didn't get any
- [3] good responses from them.
- [4] Q Who called for that meeting?
- [5] A Maybe the union but I'm not a hundred percent. I
- [6] could have though the union called for it. I don't [7] remember.
- [8] Q And do you remember where you met?
- [9] A Yes.
- [10] Q Where was that?
- [11] A The warden's office.
- [12] Q And present at the meeting, do you remember Jerry
- [13] Martinez and Lois Swiderski but you're not sure if there's a
- [14] union person there or not?
- [15] A No. There was a union person.
- [16] Q There was?
- [17] A Yes.
- [18] Q Do you know who that was?
- [19] A No.
- [20] Q Okay. And what did you express to Mr. Martinez [21] and
- Ms. Swiderski at that meeting?
- [22] A I don't remember the whole - I just remember
- [23] discussing like my hours. I don't remember.
- [24] Q And when you say you were discussing your hours,
- [25] did you object to the change in your hours?

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- [1] A Yes.
 [2] Q What was your objection?
 [3] A I wanted to work the normal, my normal shift. I [4] didn't want the special shift for me to work the 6:00 to [5] 2:30.
 [6] Q And why was that?
 [7] A Because I didn't think it was fair.
 [8] Q You didn't think what was fair?
 [9] A That they had to make up a special shift for me [10] and I didn't do anything wrong.
 [11] Q Okay. Did you know at that time that Officer
 [12] Reynoso's shift was changed?
 [13] A Most likely I did. But I don't remember when I [14] found out. I know his shift changed. I just don't know [15] when I found out.
 [16] Q Okay. Do you think that you knew his shift was
 [17] changed by the time of this meeting, April 24, 2002?
 [18] A I don't remember.
 [19] Q Okay. You say here that you explained to Mr.
 [20] Martinez and Ms. Swiderski that you felt that your safety
 [21] was in jeopardy because Reynoso had access to your work
 [22] schedule, emergency contact information. Do you see that
 [23] there?
 [24] A Yes I do.
 [25] Q What did you think he was going to do with that

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- [1] information?
 [2] A I don't remember.
 [3] Q Okay. Did Reynoso know where you lived at the [4] time?
 [5] A Yes.
 [6] Q You state in here also that in the past Mr. [7] Reynoso told you that he would watch you while you would [8] work through the surveillance cameras. Do you see that?
 [9] A Yes.
 [10] Q Did that occur after April 15, 2002?
 [11] A Not that I am aware of. I don't know.
 [12] Q Not that you're aware of?
 [13] A Yeah. I don't know.
 [14] Q Well you say here that he would then call you to
 [15] harass you about who you spoke with while you were walking.
 [16] Do you have any memory of him calling and doing that?
 [17] A Yes.
 [18] Q After April 15, 2002?
 [19] A Oh, no.
 [20] Q So when you say in the past that he would do that,
 [21] you meant before April 15, 2002?
 [22] A Yes.
 [23] Q Okay. Now you say here at the end that eighteen
 [24] days after your April 24, 2002 meeting with Martinez and
 [25] Swiderski, you were still awaiting a solution but you

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- [1] weren't getting one. What were you waiting for?
 [2] A Back then, I believe I was waiting for just to be [3] normal with my coworkers. Just to work normal hours. I [4] think that's what I was waiting for. I don't know what [5] else. I can't remember.
 [6] Q Okay. So you were at that point, you just wanted [7] to work your old shift?
 [8] A Yes.
 [9] Q Okay. Anything else that you were looking for at [10] that point?
 [11] A For him not to be around at all in the [12] institution.
 [13] Q What do you mean around at all?
 [14] A Well, I just wanted to be able to come and go like [15] a normal worker here. And for him not to be around when I'm [16] coming and going.
 [17] Q Okay. But wasn't that accomplished by changing [18] his hours. For his start time to occur after your duty day [19] ended?
 [20] A No.
 [21] Q That was not? He would still be around?
 [22] A Yes. That's why they changed my hours. So I [23] would not be around and I wanted to be able to roam free. [24] Like be able to come and go in my normal schedule and stuff [25] and I wasn't able to do that.

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- [1] Q Right. Well you just said that you wanted a [2] solution whereas he wouldn't be on the premises when you [3] were on the premises. Is that fair to say?
 [4] A Yes.
 [5] Q And wasn't that accomplished by changing your [6] hours to what they changed it to and changing his hours to [7] what they changed it to?
 [8] A No.
 [9] Q And why is that?
 [10] A Because they changed my hours at - they
 [11] completely changed my shift compared to what a normal shift
 [12] in the ISM department was.
 [13] Q Okay.
 [14] A So I had to come in earlier so I wouldn't have to [15] see him instead of allowing me to work my normal hours.
 [16] Q Would you agree that you had both, if both of you
 [17] stuck to your schedules, you would not be on the premises at
 [18] the same time?
 [19] MS. MCDONALD: Objection of form.
 [20] A I don't understand the question.
 [21] BY MR. WILMOT:
 [22] Q If you worked the scheduled that you were
 [23] reassigned to-
 [24] A Okay.
 [25] Q --and Officer Reynoso worked the schedule that

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[1] you understood they changed his schedule to after April 15,
[2] 2002, is it fair to say that you would not be on the [3] premises
at the same time during your duty work hours?

[4] A Yes. It's fair to say that.

[5] Q Okay. In the last paragraph you say here that it [6] is
perplexing to you that FMC continues to allow Mr. Reynoso [7] to
remain working at the same facility. Do you see that?

[8] A Yes.

[9] Q What did you mean by that? Did you - can you
[10] explain what you meant by that statement?

[11] A I thought that if you could not carry a firearm, [12] you
could not work here.

[13] Q So you thought he should have been terminated?

[14] A Or transferred or removed to the camp.

[15] Q At this time, May 13, 2002, you felt that when you
[16] said it was perplexing to you that he would be allowed to
[17] remain working at the same facility, you meant that he
[18] should be fired, transferred or removed to the camp? Is
[19] that your testimony?

[20] A Yes.

[21] Q Okay. The last sentence here says that you do not
[22] feel that your safety concerns were being seriously
[23] considered. Do you see that?

[24] A Yes.

[25] Q And why did you believe that?

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[1] A Again I just have to say to do with my hours. I [2] felt as
though I was treated differently because of it.

[3] Q Okay.

[4] A They changed my hours. So I felt, that's what I [5] meant
by that.

[6] Q Okay. You felt that they should have done [7] something
more?

[8] A Yes.

[9] Q What else were you looking for?

[10] A For him to go back to, go back to the camp or

[11] transferred to a different facility or just something so [12] that I
was able to perform my regular duty hours.

[13] Q Okay. And did you feel if he were, if they were [14] to do
that, if they were to transfer him to the camp or [15] something like
that, your safety concerns would have been [16] addressed?

[17] A Yes, in some ways, yes.

[18] Q And what ways would it have addressed your safety
[19] concerns?

[20] A Because I would be able to roam the institution

[21] without having to run into him and without him watching me
[22] on the camera and just do my normal daily functions.

[23] MR. WILMOT: I am going to show you what has been
[24] marked Exhibit 31. [25] //

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[1] (DOJ Exhibit 31 was marked for [2] identification.)

[3] BY MR. WILMOT:

[4] Q Do you recognize that document?

[5] A Yes.

[6] Q Can you identify what it is?

[7] A It's a letter to my supervisor, Steve Gagnon, [8] regarding
safety issues.

[9] Q And do you remember talking to Steve Gagnon about
[10] these safety issues that you address in your memo before
[11] giving him this memo?

[12] A I don't remember.

[13] Q Okay. What's the date of this memo?

[14] A June 10, 2002.

[15] Q Okay. And how did you deliver it to Steve Gagnon?

[16] A I don't remember.

[17] Q Do you remember if you gave it to him by hand?

[18] A I don't remember.

[19] Q Do you remember some meeting with Steve Gagnon
[20] after you delivered this memo to him?

[21] A I don't remember.

[22] Q Okay. Do you want to take a read of the memo for
[23] the details there? And I'm asking you to read it because I
[24] just want to ask if it refreshes your memory of you speaking
[25] with Steve Gagnon about any of these details that are

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[1] contained in your memo?

[2] A Okay.

[3] (Witness reviews document.)

[4] THE WITNESS: I still don't remember if I spoke to [5] him.

[6] MR. WILMOT: Okay. I'm going to show you what has
[7] been marked as Exhibit 32.

[8] (DOJ Exhibit No. 32 was marked for [9] identification.)

[10] BY MR. WILMOT:

[11] Q Do you recognize that document?

[12] A Yes, yes.

[13] Q Can you identify it?

[14] A It's a memorandum to the warden through Steve
[15] Gagnon from me regarding my safety issues.

[16] Q And what is the date of that memo?

[17] A June 12, 2002.

[18] Q If you compare Exhibit No. 32 and 31 together,
[19] would you agree with me that the content of the memo is
[20] identical?

[21] A Yes I would.

[22] Q Any reason why you address the memo that you sent
[23] or you gave to Steve Gagnon on June 10, 2002, why you
would [24] have sent the same memo to the warden on June 12,
2002?

[25] A I don't know.

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[1] Q Do you remember if Steve Gagnon directed you to do
 [2] that?
 [3] A I don't know.
 [4] Q Okay. In that first sentence that says that the [5] purpose
 of this memo is to request another assessment of [6] workplace
 violence stemming from the situation that occurred [7] on April 8,
 2002 between myself and David Reynoso.
 [8] Is it fair to say that there was a workplace [9] violence
 assessment of that incident prior to the date of [10] your memo
 dated June 12, 2002?
 [11] A Yes. I was told there was.
 [12] Q Who told you that?
 [13] A I talked to so many people. I don't know who told
 [14] me. I don't remember.
 [15] Q Do you know who was involved in that assessment?
 [16] A No.
 [17] Q Were you ever spoken to in regards to that
 [18] assessment?
 [19] A Can you rephrase that?
 [20] Q Was anyone who was involved in doing assessments;
 [21] speak to you about the incident?
 [22] A Not that I'm aware of. I don't even know who was [23] on
 the panel. I don't remember who was on the panel,
 [24] Q Do you know what that panel concluded when they
 [25] assessed the April 8, 2002 incident?

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[1] A That there was no, that it wasn't considered [2] workplace
 violence.
 [3] Q Okay. So you were requesting here another
 [4] assessment of that incident?
 [5] A Yes.
 [6] Q And why did you want them to conduct another
 [7] assessment?
 [8] A Well I spoke to Dr. Susan Bates, EAP counselor, [9] and
 she suggested that I write this memorandum.
 [10] Q And when was that conversation?
 [11] A I don't recall. It was prior to this memo, that's [12] all I
 remember.
 [13] Q Do you remember how you came to meet with Dr.
 [14] Bates?
 [15] A Yes.
 [16] Q How?
 [17] A Steve Gagnon wrote a memorandum suggesting that
 [18] I - in light of the situation that happened, that I speak [19] to
 an EAP counselor. So I made an appointment with Dr. [20] Bates.
 [21] Q Okay. And how many, how often did you meet with
 [22] Dr. Bates?
 [23] A I met with her once and that was it.
 [24] Q So in that one meeting, she suggested that you [25] write
 this memo?

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[1] A Yes.
 [2] Q Your June 12, 2002 memo?
 [3] A I believe it was that day. I don't remember what [4] date
 but she did suggest that I have another workplace [5] violence
 committee - suggested that I have another [6] workplace violence
 committee meeting.
 [7] Q Okay. And do you remember what you spoke to her
 [8] about other than asking for another workplace violence
 [9] committee assessment?
 [10] A I believe it was just about my past with David
 [11] Reynoso. The abuse.
 [12] Q Okay.
 [13] A I believe that was it but I don't know everything [14] that I
 said to her.
 [15] Q Okay. Now in the memo which is Exhibit 32. You
 [16] describe in this memo the occasions when you were
 threatened [17] by Office Reynoso, or felt threatened by him.
 [18] Prior to the dates of these two memos, the [19] identical
 memos, June 10, 2002 and June 12, 2002, had you [20] brought
 these threats to the attention of any supervisor [21] with the
 department before?
 [22] A Prior to June 10?
 [23] Q Yes.
 [24] A Yes I did.
 [25] Q To who?

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[1] A To Cindy Lord, the warden, Fernando Messer, I
 [2] believe. I'm not a 100 percent with him.
 [3] Q And I think you testified earlier that you told [4] them that
 you thought he would kill you, right?
 [5] A Yes.
 [6] Q Is it your testimony that you described the [7] incidences
 that you described in this memo to those persons [8] during those
 meetings on April 8, 2002?
 [9] A No. That is not my testimony.
 [10] Q Okay. Well my question was had you ever brought
 [11] these incidences to the attention of any supervisor or HR
 [12] person within the agency prior to June 10, 2002?
 [13] A Just that he would kill me. That's the only thing [14] that I
 brought to their attention.
 [15] Q Okay. So this is the first time that you brought [16] any
 specifics to anyone's attention within the agency?
 [17] A Yes I believe so.
 [18] Q Okay. And do you remember what the response was
 [19] to this June 12, 2002 memo?
 [20] A Yes.
 [21] Q And what was it?
 [22] A Steve Gagnon asked me to come upstairs with him
 [23] which meant to come up on the compound, the admin
 building, [24] and he brought me in to see Mr. Meeks, who is the
 associate [25] warden at the time.

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[1] When I sat down with Mr. Meeks he said there will [2] be no assessments of workplace violence. There was one and [3] there is not going to be anymore and that's it.

[4] Q Did Steve Gagnon say anything in that meeting?

[5] A No.

[6] Q Was anyone else present at that meeting?

[7] A No.

[8] Q And what did you say in response to what Mr. Meeks [9] told you?

[10] A I don't remember if I said anything at all. I [11] think I was in - I don't remember. I just remember him [12] telling me that. I don't think I said much.

[13] Q Okay.

[14] A It lasted all of five minutes, if that.

[15] Q Okay. If you look at paragraph 14 of your [16] Complaint. Paragraph 14 you state that plaintiff advised [17] her supervisors of threats made against her by Reynoso. Do [18] you see that there?

[19] A Yes I do.

[20] Q Are you referring to your conversation with [21] supervisors on April 8, 2002 in that paragraph?

[22] A Yes I am.

[23] Q Okay. In paragraph 15, it says that the [24] plaintiff's supervisors did not believe her and instead [25] blamed her for the assault committed upon her and otherwise

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[1] made comments in support of Reynoso and against the [2] plaintiff. Do you see that?

[3] A Yes.

[4] Q What comments were you referring to in that [5] sentence?

[6] A The warden, when I was discussing issues with [7] regard to my hours changed, he told me I didn't cause this [8] problem, you two caused this problem. And I had Brown say [9] to me during the investigation regarding my AWOL and I don't [10] know why you and Reynoso can't work this out. I like him, [11] he's a cool cat.

[12] I also, Lois Swiderski told me that - she said [13] when I was explaining how I felt my hours shouldn't be [14] changed and all that, she said that at least when you know [15] he's at work, at least - I don't remember - at least when [16] he's at work, you know where he is.

[17] And then Steve Gagnon also said to me when you see [18] him, when you see David Reynoso, just - it's your [19] obligation to turn the other way, don't cause any problems.

[20] Even though I had the restraining order on him, against [21] David Reynoso, he told me that. What else was said to me?

[22] Oh, the warden, when I was coming back in November [23] 2003, the warden told me I was assigned to come back to R&D, [24] Receiving and Discharge. And Reynoso was sent out to the [25] camp. And the warden told the union that he felt bad for

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[1] Reynoso. That he shouldn't go out to the camp and that's [2] why he gave him a day of admin leave.

[3] Q Any other comments that paragraph 15 is referring [4] to?

[5] A I don't remember exactly who I was talking to [6] whether it be Steve Gagnon or Fernando Messer, but I was [7] told that the warden, when I was complaining about my hours [8] being changed, I was told the warden said that he's not [9] guilty until proven in a court of law or something to that [10] effect. I'm paraphrasing it. I don't know the exact words.

[11] Q In the next sentence in paragraph 15 it says that [12] the plaintiff was told by supervisors that the warden [13] believed Reynoso was innocent until proven guilty. Do you [14] see that there?

[15] A Yes.

[16] Q Is that the comment you were just referring to?

[17] A Yes. But I just don't know the exact wording to [18] it.

[19] Q Okay. You say that the supervisors told you that [20] that was the warden's belief. Who told you that?

[21] A I don't remember.

[22] Q Okay.

[23] A It was probably one of the three, Fernando Messer, [24] Lois Swiderski or Steve Gagnon.

[25] Q Okay. And you believed that that comment showed

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[1] that the warden did not believe your rendition of what [2] happened on April 8, 2002?

[3] A Yes.

[4] Q Okay. You also described a comment you said the [5] warden made in November of 2003. That he felt bad for [6] Reynoso?

[7] A Yes.

[8] Q Who told you that?

[9] A Mark Shaughnessy, the former union president.

[10] Q And when did he tell you that?

[11] A I believe it was upon returning to work.

[12] Q Do you remember what your response was to that [13] statement?

[14] A No I don't.

[15] Q Do you know what else he told you in that [16] conversation?

[17] A Just that Reynoso had received admin leave for one [18] day. What else? I don't remember.

[19] Q Do you remember when you were told that by Mark [20] Shaughnessy?

[21] A I know when it was when I returned to work. But I [22] just don't remember when.

[23] Q Okay. It was the day that you returned that you [24] had that conversation with him?

[25] A No. I don't remember.

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[1] it difficult for you and Mr. Reynoso to come into contact [2] with one another?

[3] A That does sound familiar, but I don't remember who [4] or when or what said that to me.

[5] Q It goes on to say that you have expressed concern [6] over your safety and the fact that Mr. Reynoso is allowed to [7] walk in the facility. As I have discussed with you [8] previously, the abuse prevention order states that Mr. [9] Reynoso is lawfully allowed to work but should avoid contact [10] with you. Do you see that?

[11] A Yes.

[12] Q And it says here that he discussed this with you [13] previously. Do you have a memory of that? A discussion [14] with the warden before June 20, 2002 that because the [15] prevention order allows Mr. Reynoso to work but to avoid [16] contact with you that they were going to allow him to work [17] in the facility?

[18] A I don't remember.

[19] Q Okay. Now paragraph 21 of your Complaint says [20] that plaintiff was advised by supervisors that she could no [21] longer work overtime without seeking special permission so [22] that she would not come into contact with Reynoso. Reynoso [23] is free to work all overtime that he desires. Do you see [24] that there?

[25] A Yes.

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[1] Q Do you know whether or not Reynoso received [2] special attention to work overtime hours?

[3] A I don't understand the question.

[4] Q You said in the previous sentence that you had to [5] seek special permission to work overtime hours. Do you see [6] that there?

[7] A Yes.

[8] Q Do you know whether Mr. Reynoso had to go through [9] that same procedure in order to work overtime hours?

[10] A I don't know.

[11] Q Okay. Well here you say that he was free to work [12] all the overtime he wanted. Did you ever believe that he [13] did not have to seek special permission?

[14] A I believe he didn't.

[15] Q He did not?

[16] A He did not since I had to check with my supervisor [17] when I could work and when he wasn't going to be in the [18] institution.

[19] Q Okay.

[20] A And I happened to run into him and I later found [21] out that he never had to - he could just come and go [22] whenever he wanted to.

[23] Q Well concerning the overtime, how do you know that [24] he did not have to seek special permission to work overtime?

[25] A Because when I was leaving the institution from my

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[1] overtime, he was coming in at the same time so I believe, I [2] don't know if that was his, I believe that was his overtime,

[3] that he was doing overtime too.

[4] Q Okay.

[5] A But I had to ask permission which I was granted [6] permission by Steve Gagnon and when I complained about it, [7] Steve Gagnon said that you're all set Colleen, you didn't do [8] anything wrong, you came to me. They wouldn't have let him [9] work that overtime if they knew you were going to be there [10] or something to that effect.

[11] Q So the fact that you ran into him is why you [12] believe he didn't seek this special permission in order to [13] work overtime?

[14] A Yes.

[15] Q Okay. Now paragraph 22, you say that on or about [16] July 3, 2003, Reynoso pledges sufficient facts for finding [17] of guilty domestic assault and battery with a dangerous [18] weapon in Ayer District Court. Do you see that there?

[19] A Yes.

[20] MR. WILMOT: I am going to show you what has been [21] marked as Exhibit 36 and 37.

[22] (DOJ Exhibits No. 36 and 37 were [23] marked for identification.)

[24] BY MR. WILMOT:

[25] Q Do you recognize Exhibit 36?

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[1] A Yes I do.

[2] Q Can you identify what it is?

[3] A It's conditions of his probation.

[4] Q His being Mr. Reynoso?

[5] A Yes.

[6] Q Okay. Can you read what the conditions are?

[7] A "Stay away from Colleen O'Donnell and her family [8] and abide by the restraining order."

[9] Q Do you know when this probation order started?

[10] A I assume that day, I don't know.

[11] Q Okay. On the upper right hand corner it says the [12] probation start date. Do you see that?

[13] A Oh, yes.

[14] Q And what is the start date?

[15] A January 3, 2003.

[16] Q And does it have a probation end date?

[17] A April 2, 2004.

[18] Q Okay. And then the next document Exhibit 37, can [19] you identify what that document is?

[20] A Criminal Docket.

[21] Q And here it says midway through, deposition date [22] and judge. It says January 3, 2003. Do you have a memory [23] of a hearing in this matter on January 3, 2003?

[24] A Yes.

[25] Q Can you describe that hearing to me?

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[1] A January 3, 2003. He pled guilty to sufficient [2] facts and I had to give a Victim Impact Statement. And then [3] it ended. I know there was a lot of behind the door, like [4] with the attorneys behind the door which I wasn't allowed to [5] do. But other than that, I don't remember anything else.

[6] Q Now in the timeframe between April 15, 2002 when [7] you returned back to work after the incident, and the date [8] of this hearing July 3, 2003 (sic), did you have any [9] interaction with Mr. Reynoso?

[10] A Yes.

[11] Q Can you tell me about each time that you did?

[12] A I can generalize it but I don't have--

[13] Q That's fine.

[14] A A lot of phone conversations.

[15] Q Okay.

[16] A Never physical. Like never seeing each other. A [17] lot of phone conversations.

[18] Q Okay. Do you remember after April 15, 2002, what

[19] was the first conversation that you had? I think you [20] described some of them to me.

[21] A He called to apologize for that woman, D%

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[1] le Weaver calling.

[2] Q Okay. And is that the one he made from the pay [3] phone?

[4] A Yes, yes.

[5] Q And you said before that it was a week or two [6] weeks after the phone call where he and Danielle Weaver were [7] on the phone?

[8] A Yes, approximately a week or two.

[9] Q Okay. And you said that the next phone call came [10] on August or September?

[11] A Around there, yes. I don't have exact dates.

[12] Q Okay. After that phone call, when was the next [13] one, do you remember?

[14] A It was frequent. We called each other frequently.

[15] Q So you would call him as well?

[16] A Yes.

[17] Q Would you call him at his home or would you call [18] him at work?

[19] A At work mostly.

[20] Q Okay. And what were you calling him to say?

[21] A Just crying a lot. I don't remember a lot but I [22] just know that I cried a lot. And he cried a lot.

[23] Q So you would call him. Would you call him to talk [24] about your relationship?

[25] A I don't remember.

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[1] Q Okay. You were saying that you would be crying a [2] lot. So would you call him crying?

[3] A I don't know if I called him - I know I cried a [4] lot but I don't remember.

[5] Q Do you have a general memory as to why you would [6] have called him? What you wanted to talk about?

[7] A No. I was in such a fog, I don't remember.

[8] MS. MCDONALD: Can I have a quick bathroom break.

[9] MR. WILMOT: Sure.

[10] (Off the record from 3:00 to 3:07 p.m.)

[11] BY MR. WILMOT:

[12] Q You were testifying that there were times when you [13] would call Officer Reynoso?

[14] A Yes.

[15] Q I think you said it would always be when he was at [16] work?

[17] A No, because he would call me when he was at work [18] too.

[19] Q I'm talking about the times when you called him.

[20] Where would he be?

[21] A Mostly at work.

[22] Q Would you also be at work at those times?

[23] A No.

[24] Q And do you know what his shift was during this

[25] timeframe between April 15, 2002 to January 3, 2003?

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[1] A I don't remember. It could be 4:00 to midnight or [2] midnight to 8:00, most likely.

[3] Q Okay.

[4] A Because I was day watch.

[5] Q Okay. Do you remember if your conversations [6] concerned your desire to maybe reconcile your relationship [7] with him?

[8] A We had conversations about the upcoming trial. He [9] told me if he loses his job, like if he loses his job he's [10] not going to be able to pay the rent because he lives with [11] his mother and pays his mother's rent and she was really [12] sick and had medical bills.

[13] We talked about, I don't know if we talked about, [14] I know I didn't want to, I felt so bad, I thought I was [15] still in love with him and didn't want to go through with [16] anything anymore. I couldn't deal with it.

[17] I'm not sure if it's exactly reconciling. I can't [18] remember for sure, but I know it was on the basis of you [19] know, if he goes to trial, he's going to lose his pay, his [20] mother's going to be out on the street, he's going to be out [21] on the street.

[22] Also, you know, he still loved me, I still loved [23] him. That type of conversation.

[24] Q You said earlier that after April 15, 2002, he [25] never physically threatened or threatened you with physical

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- [1] harm again. Do you remember that?
- [2] A Yes I remember that.
- [3] Q During this timeframe that you're describing, your
- [4] phone calls between April 15, 2002 and January 3, 2003, did
- [5] you still feel that he was a danger to you?
- [6] A Yes. I was still scared of him.
- [7] Q Okay.
- [8] A I'll always be scared of him.
- [9] Q But you called him anyway?
- [10] A Yes.
- [11] Q Have you ever heard of a restaurant or bar in
- [12] Chelsea called the Jug?
- [13] A The Brown Jug. Yes, I was a bartender there.
- [14] Q You were a bartender there?
- [15] A Yes.
- [16] Q Do you have a memory of calling Mr. Reynoso about
- [17] 11:15 p.m. on November 29, 2002 where you expressed to
- [18] him that you did not want to go with criminal charges filed
- [19] against him?
- [20] A I don't remember. I remember having a [21] conversation
- about I didn't want to go through with it but I [22] don't remember
- when it was. But I do remember saying that I [23] didn't want to go
- through with it.
- [24] Q Do you have a memory of telling him that you were
- [25] hoping that he and you would get married during this

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- [1] timeframe April 2002 and January 3, 2003?
- [2] A I don't recall ever saying that. I don't [3] remember.
- [4] Q Okay.
- [5] A There was a lot of talk prior to that. But I [6] don't
- remember.
- [7] Q Okay. Do you have a memory of talking to Reynoso [8] on
- December 9, 2002 stating to him that you were being [9] forced to
- do what you were doing in court?
- [10] A Again I don't remember that. No. I just remember
- [11] that context of not wanting to go through with it and
- [12] talking to him about it.
- [13] Q Do you remember what your testimony was at the
- [14] hearing on January 3, 2003?
- [15] A Yes.
- [16] Q And what was that?
- [17] A It was a Victim Impact Statement. That's the only
- [18] testimony I gave, I believe.
- [19] Q Okay.
- [20] A I think, you know, I don't remember. I think [21] that's the
- only thing I did was the Victim Impact.
- [22] Q Okay. Do you have a memory of telling the judge
- [23] that you did want Mr. Reynoso to receive probation but to be
- [24] incarcerated?
- [25] A Yes.

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- [1] Q What made you change your posture on what you
- [2] wanted to happen at that hearing, from not going through
- [3] with it to asking the judge to incarcerate Mr. Reynoso?
- [4] A It was the support. I was in a domestic violence
- [5] support group and they're the ones that helped me write the
- [6] victim impact statement and - I still felt bad that day but [7] I
- think that's the reason. I think they helped me write the [8] victim
- impact statement.
- [9] Part of me felt I still really loved him and felt [10] really bad
- about everything. And then part of me at that [11] time, couldn't
- believe that he did this to me. I was in [12] pretty bad shape
- mentally.
- [13] Q At that time, did you have any representation with
- [14] you at the January 3, 2003 hearing?
- [15] A The assistant district attorney was there. I just [16] had
- the director of a woman's group called Portal to Hope. [17] She
- was there for support.
- [18] Q What is her name?
- [19] A Deborah Fallon.
- [20] Q Okay.
- [21] A My mother was there. My sister was there. My
- [22] cousin, Linda Sweeney was there. And there were some
- people [23] from work there.
- [24] Q Some people from work?
- [25] A Yes.

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- [1] Q Who from work?
- [2] A Holly Glover. Brian Padula. Michael Mathon. [3] Stephanie
- Powers. I feel like there were more but I can't [4] remember. I said
- my sister and my mother. I don't [5] remember.
- [6] Q Okay. Do you remember what Stephanie Powers
- [7] position was within the DOP at the time of that hearing?
- [8] A Correctional officer.
- [9] Q Is she still employed by the department?
- [10] A Yes.
- [11] Q And you said there's a Michael Mathon?
- [12] A Yes.
- [13] Q What was his position during the time of the
- [14] hearing?
- [15] A I believe a senior officer specialist.
- [16] Q And is he still employed by the Bureau?
- [17] A Yes.
- [18] Q Okay. It says your testimony that your statement
- [19] during the hearing was a prepared statement?
- [20] A Yes.
- [21] Q Okay. And did Mr. Reynoso go to the hearing with
- [22] anyone?
- [23] A Yes.
- [24] Q Do you remember who?
- [25] A His mother was there. And a woman was there with

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[1] him. And an attorney.
 [2] Q Do you know who the woman was?
 [3] A Yes.
 [4] Q Who was she?
 [5] A Sarah Carpenter.
 [6] Q Do you know what her relationship was to Mr. [7] Reynoso at the time of that hearing?
 [8] A She's really good friends with his sister and he [9] used to date her so I wasn't too sure.
 [10] Q Okay. Were you surprised to see her there?
 [11] A Yes.
 [12] Q And why was that?
 [13] A Because the last time I spoke to his sister - he [14] used to beat Sarah up, and she was happy because she finally [15] got away from him. And that was probably two years prior to [16] that trial date that I talked to his sister about that [17] because his sister was still friends with her.
 [18] Q And how do you know what Sarah Carpenter looked [19] like?
 [20] A Pictures from - we went to Florida and his sister [21] has pictures of her in her house in frames.
 [22] Q Do you remember her from those pictures?
 [23] A Yes.
 [24] Q And on the date of the hearing, you saw that it [25] was her?

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[1] A Yes. I wasn't 100 percent. I assumed it was her.
 [2] Q Okay. And did it anger you to see Sarah Carpenter [3] at the hearing?
 [4] A It hurt me more than anything.
 [5] Q And why were you hurt?
 [6] A I thought I was still in love with him at the [7] time. I guess, you know, even though I knew what he did was [8] wrong, I still...
 [9] Q I'm sorry?
 [10] A Even though I knew what he did was wrong, I was [11] still in love. My head wasn't straight.
 [12] MS. MCDONALD: Can we take a break for a minute?
 [13] MR. WILMOT: Sure.
 [14] (Off the record from 3:19 to 3:27 p.m.)
 [15] BY MR. WILMOT:
 [16] Q At the hearing on January 3, 2003, did you speak [17] with Mr. Reynoso at all?
 [18] A At the hearing?
 [19] Q At the hearing?
 [20] A No.
 [21] Q Okay. Did he speak to you at all?
 [22] A No.
 [23] Q Did he make any gesture towards you at the [24] hearing?
 [25] A He smiled at me when I first walked in.

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[1] Q Did he do anything threatening towards you?
 [2] A No.
 [3] Q Okay. Did his family members say anything to you?
 [4] A No.
 [5] Q Okay.
 [6] A You know, what I did forget. That I believe - I [7] don't know if I told you that Al Colon, he was at the [8] hearing too.
 [9] Q Al Colon was there too?
 [10] A Yeah.
 [11] Q Okay.
 [12] A I believe so. I'm not a hundred - I believe he [13] was at one of the hearings. I think that's the one.
 [14] Q To support you or Mr. Reynoso?
 [15] A To support me.
 [16] MR. WILMOT: Okay. I am going to show you what [17] has been marked as Exhibit 38.
 [18] (DOJ Exhibit No. 38 was marked for [19] identification.)
 [20] BY MR. WILMOT:
 [21] Q Do you recognize this document?
 [22] A Yes.
 [23] Q Can you tell me what that is?
 [24] A That's a memorandum from me to the warden
 [25] regarding January 3rd, the trial, David Reynoso's trial.

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[1] Q His plea?
 [2] A Yes, his plea.
 [3] Q Okay. Do you remember how you delivered this to [4] the warden?
 [5] A I know that when it was over with that day, I came [6] and I actually physically talked to the warden and Steve [7] Gagnon.
 [8] Q So the day of the hearing January 3, 2003, you [9] spoke to the warden and Steven Gagnon?
 [10] A Yes.
 [11] Q Do you remember what you told them?
 [12] A Basically what's in the memo. That he pled [13] guilty. He was on probation but I told him that it was [14] going to be off his record like if he doesn't do anything [15] wrong within the next fifteen months.
 [16] Q Okay. Did you provide them with any documents?
 [17] A January 3rd? I don't believe I did. I just [18] showed up, I didn't have an appointment.
 [19] Q Okay. If you just showed up, did you show up at [20] the warden's door?
 [21] A Actually I showed up - as I was walking through [22] the lobby, Steve Gagnon happened to be leaving the warden's [23] office and he brought me up and I told him what happened.
 [24] And he brought me up to the warden's office and the [25] secretary talked to the warden and we were able to go on and

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[1] see him.

[2] Q Okay. Do you remember what, if anything, the [3] warden said to you when you gave him this information?

[4] A He said give me 'til Monday. He said write a memo [5] and give me 'til Monday or Tuesday, Monday or Tuesday, I [6] don't remember the exact date, one of those days. And I'll [7] have you back in R&D, because Steve Gagnon was saying, you [8] know, she needs to get back to R&D. She needs to learn more [9] stuff in R&D and he said give me 'til Monday or Tuesday, let [10] me figure this all out and I'll have you back with your [11] normal schedule.

[12] Q Okay. Do you remember what else the warden said [13] in that meeting?

[14] A It was a very brief meeting. So, no I don't. I [15] just remember that.

[16] Q Okay. Do you know what else Steve Gagnon said in [17] that meeting?

[18] A I think - I just remember him saying that he [19] really wants me to get back to the swing of things in R&D. [20] In Receiving and Discharge.

[21] Q Okay.

[22] A That's all I remember.

[23] Q Okay. Do you remember what time of day that was?

[24] A It was in the after - I don't know, I don't [25] remember. It was immediately after the guilty plea, but I

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[1] don't remember when it ended. I just came directly here.

[2] Q Were you working that day?

[3] A No, I had annual leave, vacation day.

[4] Q So was your sole purpose coming in that day to [5] tell the warden about the results of the hearing?

[6] A And Steve Gagnon and my supervisor. Yes.

[7] Q Okay. Did you and you said your supervisor? [8] Did you have a chance to speak to your supervisor that day?

[9] A Yes.

[10] Q And what did you talk to him about?

[11] A Just that he wanted, now that this is over, he [12] wanted to get me back in the swing of things and work in R&D [13] so I can familiarize myself with that part of the [14] department.

[15] Q Okay. Are you still talking about Steve Gagnon at [16] this point?

[17] A Yes.

[18] Q Okay. Other than the warden and Steve Gagnon, did [19] you speak with anyone else about the results of the hearing [20] on January 3, 2003?

[21] A I don't remember.

[22] Q Okay.

[23] A I - no, I don't remember.

[24] Q Okay. Now you said that during your January 3, [25] 2003 meeting with the warden, he instructed you to write up

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[1] the results of the hearing in a memo. Is that the memo [2] there that he instructed you to write that's marked as [3] Exhibit 38?

[4] A Yes.

[5] Q Okay. And do you remember how you delivered that [6] to the warden?

[7] A I don't remember.

[8] Q Okay. Do you remember if you went back to work [9] the next day after January 3, 2003?

[10] A It was a Friday, so I went back that Monday.

[11] Q So that would have been the 6th that you returned [12] back to work?

[13] A Yes.

[14] MR. WILMOT: I am going to show you what has been [15] marked as Exhibit 39.

[16] (DOJ Exhibit No. 39 was marked for [17] identification.)

[18] BY MR. WILMOT:

[19] Q Do you recognize that document?

[20] A Yes. I do. I recognize it.

[21] Q Can you identify what this is?

[22] A It's my regular duty hours at ISM beginning on [23] January 13. Just saying what my hours would be and if I [24] wanted to work overtime, I must notify my supervisor in [25] advance.

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[1] Q Okay. So your hours were going to be changed from [2] 6:00 a.m. to 2:30 p.m. to 9:30 a.m. to 6:00 p.m. Is that [3] correct?

[4] A No.

[5] Q Okay. So what was going to happen to your [6] schedule?

[7] A I'm a little confused.

[8] Q When you received this letter and it's dated [9] January 8, 2003. What were your scheduled hours at that [10] time?

[11] A 7:30 to 4:00, I believe. 7:30 to 4:00.

[12] Q Okay. Now you testified earlier that your hours [13] when you returned back to work following this incident in [14] April 2002, the hours were changed to 6:00 until 3:30. Is [15] that right?

[16] A 6:00 to 2:30.

[17] Q To 2:30?

[18] A That's correct, yes.

[19] Q So at the time that you received this letter dated [20] January 8, 2003, your schedule was no longer 6:00 to 2:30?

[21] A No it was not.

[22] Q When was it changed?

[23] A I hurt my back. A bunch of boxes fell on me so [24] they changed me because nobody would be in at that time. So [25] I don't know, I forget if they changed me from 6:30 to 3:00

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[1] or 7:30 to 4:00. I'm not sure of the exact hours they
 [2] changed me but I had to report directly to the mailroom.
 [3] Q Okay.
 [4] A I, because when you hurt yourself, you can't come
 [5] inside past Control because it's a safety issue.
 [6] Q When was that accident?
 [7] A I don't know. It was in the Summer of 2002. But [8] I don't
 remember when.
 [9] Q Okay. So some point in the Summer of 2002, your
 [10] schedule was changed to this either 6:30 or 7:30 a.m. to
 [11] 3:00 or 4:00 p.m.?
 [12] A That is correct.
 [13] Q Okay. Did you stay on that same schedule until
 [14] January 8, 2003?
 [15] A I believe I did.
 [16] Q Okay.
 [17] A Until January 7, 2003 I believe it was. Or maybe [18] - it
 was either January 7 or January 8 because that's [19] when - I
 didn't come back after that day for awhile.
 [20] Q Okay. So in that interim between the Summer of
 [21] 2002 where they changed your schedule because you injured
 [22] your back until January 7 or so of 2003, were you still
 [23] suffering from that back injury?
 [24] A Yes.
 [25] Q Okay. So I'm looking at this document that's

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[1] marked as Exhibit 39. Do you remember how this was
 [2] delivered to you?
 [3] A I believe it was FedEx.
 [4] Q To your home.
 [5] A To my home. Yes. In Malden.
 [6] Q So at some point, you did not return back to work?
 [7] A Correct.
 [8] Q And what date was that? Your last working date [9] prior
 to this January 8, 2003 letter?
 [10] A I believe it was January 7, 2003.
 [11] Q Do you remember what day of the week January 7,
 [12] 2003 was?
 [13] A I believe it was a Tuesday.
 [14] Q Okay. And you said that was your last working [15] day?
 [16] A It was either that Tuesday or Wednesday, January
 [17] 7th or January 8th.
 [18] Q Okay. Now what prompted you not returning back to
 [19] work at that time?
 [20] A I remember I called - both my supervisors were [21] not
 there that day. Steve Gagnon or Fernando Messer were [22] not in
 the institution that day. Nor was the warden. He [23] wasn't here.
 [24] And I wanted the answers. I wanted to go in R&D [25] and
 work the other shift and I called and I spoke with Lois

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[1] Swiderski and she told me that Cindy Lord wasn't in that day
 [2] either. I said I want to know. I said I want to go back to
 [3] work. And she said - well let me talk to, I believe it was [4] Rick
 Harnes who was the associate warden at the time.
 [5] She called me back and she said, Colleen, you need [6] to
 stay out in the mailroom. I don't know if it was 7:30 to [7] 4:00 or
 6:30 to 3:00. I don't remember the hours but she's [8] saying you
 need to stay out in the mailroom until further [9] notice.
 [10] And I said that's not fair and I was told by the [11] warden he
 would have a decision for me on Monday or Tuesday. [12] And I
 really don't want to work in the mailroom or mail [13] department. I
 want to go to my other department and she said [14] no, per Rick
 Harnes you cannot come in the institution just [15] yet.
 [16] Q Now this conversation was with who?
 [17] A Lois Swiderski.
 [18] Q So you had two conversations with her? You first [19] just
 called her? She said that she was going to speak with [20] Rick
 Harnes and then she called you back?
 [21] A Correct, yes.
 [22] Q Okay. And do you remember when this conversation
 [23] took place? What day?
 [24] A It was either January 7th or the 8th. The Tuesday [25] or
 the Wednesday. I'm not too sure of the exact date. It

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[1] was either those two days.
 [2] Q And the last conversation you had with the warden
 [3] was the Friday before the weekend, correct?
 [4] A Yes.
 [5] Q And he said in that conversation, he said he would
 [6] allow you to work back in Receiving and Discharge?
 [7] A Yes.
 [8] Q So between that conversation with the warden and [9] this
 conversation with Lois Swiderski, did you learn that [10] you would
 not be able to work in Receiving and Discharge [11] from
 someone?
 [12] A Lois Swiderski.
 [13] Q In that first conversation?
 [14] A No. In that second conversation of that day. [15] She's
 the one who told me that I cannot go to R&D. I have [16] to stay
 out in the mailroom until further notice.
 [17] Q Okay. Now the day that you spoke to Lois, was [18] this
 after your duty day or before?
 [19] A During.
 [20] Q But you were, were you in the mailroom at this [21] time,
 when you had the conversation with Lois?
 [22] A Yes. I called her from the mailroom.
 [23] Q Okay. So you were working at the time?
 [24] A Yes.
 [25] Q Okay. Did you speak with anyone else that day

[11] saw your doctor?

[12] A It was either January – I believe it was January [13] 8th or January 9th. It was within that week of January 6th [14] that the incident happened.

[15] Q And why did you decide to see your doctor?

[16] A Because I couldn't take it. I thought I was being [17] discriminated against because I – I don't know, I just [18] couldn't handle it.

[19] Q What was it that you couldn't handle?

[20] A That I wasn't allowed to work in R&D. In [21] Receiving and Discharge when I was told I could.

[22] Q And for that reason, you decided to call your [23] doctor?

[24] A Well that's what triggered – I was having my [25] heart – I had a bad anxiety and physical symptoms. That's

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[1] why I called my doctor.

[2] Q Okay. And what's the name of your doctor that you [3] called?

[4] A George Milowe.

[5] Q What kind of doctor is George Milowe?

[6] A He's a psychiatrist.

[7] Q Were you seeing George Milowe prior to January 8, [8] 2003?

[9] A Yes.

[10] Q When did you begin seeing him?

[11] A It was either February or March of 2002.

[12] Q And why did you start seeing him in February or [13] March of 2002?

[14] A Because I was really depressed. I was in an [15] abusive relationship and I didn't know why I kept staying in [16] there in the relationship. And I really needed help.

[17] Q At any point between February or March of 2002 and

[18] January 8, 2003, did Dr. Milowe prescribe you any [19] medication?

[20] A Yes.

[21] Q What did he prescribe you?

[22] A Several medications. It was trial and error type [23] of medications. Celexa, Tobermax, Clonapin. There was [24] another medication for sleeping but I don't know the name of [25] it. Prozac, Effxor.

[11] Q Do you still use that medication?

[12] A The Celexa?

[13] Q Yes.

[14] A No.

[15] Q When did you stop using it?

[16] A I don't remember.

[17] Q Do you still take the Effxor?

[18] A No.

[19] Q When did you stop using that?

[20] A A few months after I starting taking it. I just [21] know it wasn't effective for me.

[22] Q Okay.

[23] A The side effects weren't good I should say.

[24] Q You said a few months. You were using it for two [25] or three months?

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[1] A Maybe three or four.

[2] Q Okay. You said Tobermax?

[3] A Tobermax.

[4] Q Do you know when you began taking that medication?

[5] A No.

[6] Q Do you remember when you stopped using that [7] medication?

[8] A No.

[9] Q Clona – What is it? Clonapin?

[10] A Clonapin.

[11] Q Clonapin.

[12] A Clonapin.

[13] Q Okay.

[14] A I'm currently still taking that.

[15] Q Do you remember when you started taking it?

[16] A I believe it was February, March 2002. I've been [17] on and off with the medication.

[18] Q So has it been consistent from February or March

[19] 2002 to present that you've been on the Clonapin?

[20] A No. I don't believe so. I was off of it for [21] awhile.

[22] Q What was that time period when you were not taking [23] it?

[24] A Recently it was a few months. Probably like May [25] until last week or the week before.

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- [1] Q May of?
- [2] A 2005.
- [3] Q Okay. Until about a week.
- [4] A A week or two ago.
- [5] Q -okay.
- [6] A And actually, I didn't take it from maybe like [7] January 2004 until I don't remember the exact, I don't [8] remember. It was on and off so I don't remember the dates.
- [9] Q Okay. Was there something that happened recently [10] that you had to - why you had to start taking it again?
- [11] A I was actually taking it and I got pregnant and I [12] miscarried. Yeah.
- [13] Q So the doctor prescribed it again?
- [14] A Yeah, I wasn't taking it while I was pregnant.
- [15] Q Okay. You mentioned sleeping medication?
- [16] A Yes.
- [17] Q Do you remember when you started to take that [18] medication?
- [19] A Dr. Milowe prescribed it in February or March when [20] I started to see him, 2002. And I didn't like it. It made [21] me really groggy so he told me to stick with the Clonapin, [22] he said it relaxes you and so I really haven't been using [23] sleeping medication that much. I tried it but it didn't [24] work for me.
- [25] Q How long did you try it for?

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- [1] A Maybe a week.
- [2] Q Okay. And you said you were also prescribed [3] Prozac?
- [4] A Yes.
- [5] Q Do you remember when Dr. Milowe prescribed that?
- [6] A No. I don't remember. I'm currently on it now [7] from a different doctor but I don't remember.
- [8] Q Do you have a memory of Milowe prescribing the [9] Prozac?
- [10] A Yes I believe so.
- [11] Q Okay.
- [12] A I mean there might be some medications I'm [13] missing. But through trial and error there were a lot of [14] medications that I was on. So I don't know if I have the [15] exact list.
- [16] Q Before Dr. Milowe, had you ever been treated by [17] any other mental health prescriber?
- [18] A No.
- [19] Q So, he's the first psychiatrist that you've seen [20] in your lifetime?
- [21] A Yes.
- [22] Q Okay. So you said after you left work on the 8th, [23] you called Dr. Milowe?
- [24] A Yes.
- [25] Q And you went in to see him the following day?

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- [1] A Yes. I'm not sure if I left on the 7th or the [2] 8th.
- [3] Q Okay. And you testified that what prompted you to [4] call Dr. Milowe was being told that you wouldn't be allowed [5] to work back at R&D? Is that your testimony?
- [6] A No. It was more I thought I was having a [7] breakdown. A physical aspect. My heart was racing really [8] quick and I think it was caused by them telling me that I [9] still had to stay out in the mailroom. But I called Dr. [10] Milowe because I was nervous too. Physically.
- [11] MR. WILMOT: Okay. Can we go off the record for a [12] moment?
- [13] (Off the record from 3:54 to 3:55 p.m.)
- [14] BY MR. WILMOT:
- [15] Q What do you remember about your meeting with Dr. [16] Milowe the next day?
- [17] MS. MCDONALD: Can we go off the record for one [18] second?
- [19] MR. WILMOT: Sure.
- [20] (Off the record from 3:55 to 3:55 p.m.)
- [21] BY MR. WILMOT:
- [22] Q What do you remember about your conversation with [23] Dr. Milowe the next day?
- [24] A The following day? I just told him, I just [25] probably, I just couldn't handle it. I felt like work was

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- [1] discriminating against me.
- [2] I was, you know, my prior symptoms were, like, I [3] was nervous all the time and everything and they seemed to [4] be getting worst those past twenty-four hours. I just [5] couldn't handle it.
- [6] Q Did you tell Dr. Milowe in that meeting that you [7] were afraid that Reynoso was going to harm you?
- [8] A I don't know if I did in that meeting.
- [9] Q Okay.
- [10] A I don't remember.
- [11] Q Do you remember asking Dr. Milowe to write a note [12] for you so you could produce it to your employer?
- [13] A Yes.
- [14] Q What did you ask him?
- [15] A See, he was encouraging me to leave the Bureau you [16] know, throughout this whole thing. So I just think he said [17] it's not - mentally, you shouldn't go back because mentally [18] you're not ready to go back or go in because I was so upset. [19] I don't remember how the note came about but I [20] said you need to write me a note. I might have. But I [21] don't remember.
- [22] Q Did you have an attorney by this point?
- [23] A No.
- [24] MR. WILMOT: Okay. I'm going to show you what has [25] been marked as Exhibit 40.

BSA

Depo-O'Donnell V Gonzales, 04-40190-FDS - Depo of Colleen O'Donnell - 08/24/05 XMAX(48/48)

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[1] Q Have you ever seen this document before?
 [2] A It doesn't look familiar.
 [3] Q Well, can you identify what it is?
 [4] A It's a memorandum from Steve Gagnon to the warden.
 [5] Q And what's the date on this memo?
 [6] A January 9, 2003.
 [7] Q Okay. There it says that on Thursday, January 9, [8] 2002 at approximately 8:45 a.m. I spoke with Ms. Colleen [9] O'Donnell. Now it's dated January 9, 2003 and likely [10] there's a typo in the text of the memo, but do you remember [11] speaking with Steve
 [25] Q Okay. Do you remember at all speaking with Steve

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[1] (DOJ Exhibit No. 42 was marked for [2] identification.)
 [3] BY MR. WILMOT:
 [4] Q Do you recognize this document?
 [5] A Yes.
 [6] Q Can you identify what it is?
 [7] A It's from the Bureau of Prisons to me, asking me [8] to release my medical information and wants me to sign
 [9] something to send to my doctor to release my medical
 [10] information.
 [11] Q Okay. And do you remember how you received this
 [25] A I spoke with the union first regarding it and then

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[1] Gagnon about having to provide additional information
 [2] concerning your reasons for being out of work at that time?
 [3] A I remember, yeah, him requesting, telling me I [4] needed more doctor's notes or things like that.
 [5] Q Okay.
 [6] A But I don't remember anything specific.
 [7] Q Do you remember what your response was to that
 [8] request from Steve Gagnon?
 [9] A No I don't.
 [10] Q Okay. Is it your memory that Dr. Milowe provided
 [11] you this note that's dated January 8, 2003 on the day that
 [12] you met with him?
 [13] A Yes.
 [14] Q Okay. And do you remember if you went to work the
 [15] same day that you met with the doctor?
 [16] A No, I did not.
 [17] Q You did not?
 [18] A No.
 [19] Q Okay. Do you know who you spoke with on January
 [20] 8, 2003 to inform the BOP that you would not be coming in to
 [21] work?
 [22] A No, I don't.
 [23] MR. WILMOT: Okay. I am going to show you what [24] has been marked as Exhibit 42. [25] //

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[1] I contacted an attorney.
 [2] Q And that was all on which date?
 [3] A I don't know the exact date of it. I know after [4] receiving this document but I don't know the exact date.
 [5] Q Did you speak to anyone in HR or any of your
 [6] supervisors about this letter dated January 9, 2003 in that
 [7] timeframe that we--
 [8] A I don't remember.
 [9] Q Okay. Do you have a memory of speaking with Cindy
 [10] Lord on January 14, 2003 about providing additional
 [11] documentation to support your being out of work at that
 [12] time?
 [13] A I don't remember the date but I do remember
 [14] speaking with her regarding additional documentation.
 [15] Q Okay.
 [16] A But I don't remember dates.
 [17] Q What do you remember about the conversation?
 [18] A She wanted me to resign the release. I don't
 [19] remember. That's all I remember.
 [20] Q Do you remember telling her that you would sign [21] the release?
 [22] A I was going to, yes. I think I did.
 [23] Q Do you remember if you called her or she called
 [24] you?
 [25] A I don't remember.

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[1] Q Okay. Do you remember if you asked for more time [2] to provide the information?

[3] A The documentation from my doctor?

[4] Q Yes.

[5] A I remember I was going to sign it because I [6] thought that was the right thing to do so I think I might [7] have asked for more time to talk to my attorney.

[8] Q Okay. Do you remember anything you spoke about in [9] that conversation?

[10] A No.

[11] Q Do you remember if you discussed at all the [12] Voluntary Leave Program?

[13] A I remember I discussed it. I just don't remember [14] when I discussed it.

[15] Q Do you remember discussing the Leave Without Pay [16] procedures in that conversation?

[17] A I do. I remember discussing that with her.

[18] Q What did Ms. Lord say about those procedures?

[19] A I remember the Voluntary Leave Program. Was there [20] a form I had to fill out? And I had to have medical [21] documentation, I don't remember exactly. But I know I had [22] to have medical documentation to back up why I was going for [23] this, and also Leave Without Pay or Advanced Leave is to be [24] written to the warden. He makes that decision with - and [25] to have documentation to back it up.

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[1] MR. WILMOT: Okay. I am showing you what has been [2] marked as Exhibit 43.

[3] (DOJ Exhibit No. 43 was marked for [4] identification.)

[5] BY MR. WILMOT:

[6] Q Do you recognize that document?

[7] A Yes I do.

[8] Q Can you identify what is please?

[9] A It's a memorandum from me to the warden requesting [10] Advanced Leave.

[11] Q Do you remember if you provided any information [12] with this request?

[13] A I don't remember if I did.

[14] Q And what's the date of this memo?

[15] A January 21, 2003.

[16] Q Okay. Do you remember whether between the date of [17] Dr. Milowe's memo which is January 8, 2003 and January 21, [18] 2003, if you provided any additional medical documents to [19] the Bureau?

[20] A I don't remember. I remember I provided them in [21] the past. I just don't remember the dates I provided them.

[22] Q Do you remember during that same timeframe, that [23] you granted the Bureau permission to speak with Dr. Milowe?

[24] A To speak with Dr. Milowe?

[25] Q About your condition?

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[1] A No, because I remember I was going to sign the [2] waiver for them but I don't recall letting them speak, [3] saying oh yeah, go ahead and speak to them. I don't know [4] though. I don't remember.

[5] Q Do you have a memory of ever signing the waiver [6] and delivering that to the Bureau?

[7] A No I don't.

[8] MR. WILMOT: Okay. I am going to show you a [9] document marked as Exhibit 44.

[10] (DOJ Exhibit No. 44 was marked for [11] identification.)

[12] BY MR. WILMOT:

[13] Q Do you recognize that document?

[14] A Yes I do.

[15] Q Can you identify what it is please?

[16] A It is a letter from my attorney Sam Rizzitelli, [17] Samuel Rizzitelli, to the warden and to Cynthia Lord.

[18] Q What is the date of this letter?

[19] A January 21, 2003.

[20] Q Do you know whether before January 21, 2003, you [21] had notified the warden or any other supervisor or anyone in [22] HR, that Sam Rizzitelli was your counsel?

[23] A No because there was some confusion on that so I [24] don't think I did. I'm not positive.

[25] Q Do you remember when you retained Mr. Rizzitelli

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[1] as your counsel?

[2] A I don't. It was in January but I just don't [3] remember when.

[4] MR. WILMOT: Okay. I am going to show you what [5] has been marked as Exhibit 45.

[6] (DOJ Exhibit No. 45 was marked for [7] identification.)

[8] BY MR. WILMOT:

[9] Q Can you identify what this document is?

[10] A It's a memorandum from Steve Gagnon and the [11] assistant manager to Warden Winn.

[12] Q And this document describes, Steve Gagnon [13] describes a conversation with you on Tuesday, January 21, [14] 2003 where he relayed to you that the warden received a [15] letter from your attorney. Do you remember this [16] conversation at all?

[17] A Somewhat I do actually.

[18] Q What do you remember about it?

[19] A My attorney wanted me to call, my former attorney [20] wanted me to call Steve Gagnon to find my status out, what [21] was going on. He - I don't remember the whole - I just [22] remembered him what would it take to have me come back, what [23] do I need in able to come back. And I said Reynoso not to [24] be there.

[25] Q For Reynoso not to be there?

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- [1] A Yes.
- [2] Q Do you remember what your exact words were?
- [3] A No, I'm paraphrasing.
- [4] Q Okay. Do you remember if you asked for Reynoso to
- [5] be terminated?
- [6] A I don't remember if I asked for that.
- [7] Q And what was Mr. Gagnon's response to your
- [8] statement concerning Mr. Reynoso?
- [9] A He asked me, I don't remember. I just remember [10] that
- part of the conversation where he said you know, what [11] do you
- need to come back to work. I remember that but I [12] don't know
- how the whole conversation went.
- [13] Q Do you remember if he discussed to you the
- [14] procedures for applying for Leave?
- [15] A I don't know if he discussed it with me.
- [16] Q Do you remember if he informed you that you were
- [17] running out of annual and sick leave?
- [18] A Yes he did. He did tell me that.
- [19] Q Okay. Do you think that in telling you that he [20] would
- also have told you that you should probably apply for [21] some
- kind of Leave so you continue to stay out of work?
- [22] A He might have. I just don't remember. I remember
- [23] him stating that I don't have much sick or vacation time
- [24] left.
- [25] Q Do you remember anything else about that

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- [1] conversation?
- [2] A No I don't.
- [3] Q Do you remember whether you provided any medical,
- [4] any additional medical information to the Bureau by January
- [5] 21, 2003?
- [6] A No I don't remember the dates of my medical
- [7] information.
- [8] MR. WILMOT: I am going to show you what is marked [9] as
- Exhibit 46. It is a two page document.
- [10] (DOJ Exhibit No. 46 was marked for [11] identification.)
- [12] BY MR. WILMOT:
- [13] Q Do you recognize that document?
- [14] A Yes.
- [15] Q Can you identify what it is please?
- [16] A It's a letter to me from Steve Gagnon and my
- [17] systems manager. It's in response to the request that I
- [18] requested for Advanced Sick Leave.
- [19] Q And when he says in response to your request for
- [20] Advanced Sick Leave, he is referring to the memo, referring
- [21] to this memo marked as Exhibit 43 dated January 21, 2003,
- do [22] you know?
- [23] A I don't. Maybe but I don't remember.
- [24] Q Okay. And attached to that is what?
- [25] A That's an SF71 which is a request for leave, for a

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- [1] vacation or sick time.
- [2] Q And did you fill out this form?
- [3] A I don't remember.
- [4] Q Do you remember if you spoke with Mr. Gagnon about
- [5] the content of this letter dated January 23, 2003?
- [6] A No I don't.
- [7] MR. WILMOT: Okay. I am going to show you what [8] has
- been marked as Exhibit 47.
- [9] (DOJ Exhibit No. 47 was marked for [10] identification.)
- [11] BY MR. WILMOT:
- [12] Q Do you recognize that document?
- [13] A Yes I do.
- [14] Q Can you identify what it is please?
- [15] A It's a letter to me from the warden regarding [16] that's he
- unable to grant my accommodation request that [17] another staff
- member be removed.
- [18] Q Okay. Do you have a memory of speaking to the
- [19] warden or any supervisor or anyone in HR about this letter
- [20] or the content of this letter?
- [21] A No, just my attorney. I remember speaking to him
- [22] about it. Not anyone here.
- [23] Q Okay. Now here in the first sentence it says he [24] is
- unable to grant your accommodation request that another
- [25] staff member be removed. Do you see that?

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- [1] A I do. Yes.
- [2] Q Did you ask that another staff member be removed [3] as
- an accommodation?
- [4] A Yes.
- [5] Q And did you say the words you wanted Officer
- [6] Reynoso removed?
- [7] A I don't know the exact words I used.
- [8] Q At this point January 27, 2003, what accommodation
- [9] were you seeking at that time?
- [10] A At that point, I still needed to be out of work [11] due to
- my condition, my medical condition. I still needed [12] to be out of
- work. So that the accommodation I was looking [13] for I think, I
- believe, was basically you know, voluntary [14] leave, transfer
- program, that type of thing. That I would [15] get paid while
- recovering, while trying to recover from post [16] traumatic stress
- disorder.
- [17] Q Okay. When did Dr. Milowe diagnose you with post
- [18] traumatic stress disorder?
- [19] A The first time I ever heard him diagnose me with
- [20] anything for the most part was the date of that letter which
- [21] was January 8, 2003. Prior to that, I think it was that [22] date
- that he told me that's what I was suffering from.
- [23] Q On January 8, 2003?
- [24] A Yes. On January 8, 2003.
- [25] Q He never told you had post traumatic stress

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- [1] disorder prior to that date?
 [2] A Not that I can recall.
 [3] Q Okay. Other than that diagnosis, did he ever [4] diagnose you with anything else during the time that you [5] were receiving the treatment from him?
 [6] A Yes actually. He told me I suffered from [7] depression.
 [8] Q And when did he tell you that?
 [9] A Throughout my treatment. From February 2002 until [10] January 8, before I heard about the post traumatic stress [11] disorder. He said depression, battered woman syndrome and [12] anxiety.
 [13] Q And when did he diagnose you with battered woman [14] syndrome?
 [15] A Throughout our conversations through the months. [16] I don't remember the exact months. This is what he would [17] tell me that you know, what I'm suffering from.
 [18] Q Do you know if it was early on in your treatment [19] that he told you that?
 [20] A Yes it was actually.
 [21] Q As early as February or March of 2002?
 [22] A It could have been.
 [23] Q And you said he also diagnosed you with anxiety [24] problems?
 [25] A Yes.

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- [1] Q When did he tell you that?
 [2] A In the beginning. All, the depression, the [3] anxiety, the battered woman, it was all in the beginning.
 [4] Q Okay.
 [5] A We discussed what he believed I was suffering from [6] and from then on, we discussed treatments.
 [7] Q Okay. Do you know whether there was any point [8] where he said that you were no longer suffering from [9] anxiety?
 [10] A He's never said that to me, no.
 [11] Q So you still suffer from anxiety issues today?
 [12] A Yes.
 [13] Q Has he ever told you that you no longer suffer [14] from the battered woman syndrome?
 [15] A No.
 [16] Q Do you believe that you still suffer from that [17] today?
 [18] A No.
 [19] Q When do you think that you stopped suffering from [20] that syndrome?
 [21] A Within the last year, I've got myself together [22] with that. Within the last year.
 [23] Q Okay. When you say within the last year, do you [24] mean within 2005?
 [25] A 2005, yes.

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- [1] Q And you said that he had diagnosed you with [2] depression. Did he ever tell you that you were no longer [3] suffering from depression? ...
 [4] A No, he never did.
 [5] Q Okay. Are you still suffering from depression [6] today?
 [7] A Yes.
 [8] Q And did you see Dr. Milowe soon after the incident [9] at Mirror Lake in April of 2002?
 [10] A I don't remember when my next appointment was or [11] anything so I don't remember.
 [12] Q Do you remember discussing that incident with Dr. [13] Milowe?
 [14] A Yes.
 [15] Q Do you remember if you discussed it with him soon [16] after the incident occurred?
 [17] A I don't remember.
 [18] Q Okay.
 [19] A I believe I was seeing him every four to six [20] weeks. So I don't remember exactly when my appointment was [21] after that.
 [22] Q Do you remember if you did see Dr. Milowe in 2002, [23] following the incident in April 2002 at Mirror Lake?
 [24] A Yes I did.
 [25] Q Okay. But he did not diagnose you with post

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- [1] traumatic stress disorder until January 8, 2003?
 [2] A As far as I knew he never said that to me. No. [3] So has never said that I suffered from that until January [4] 8th.
 [5] MR. WILMOT: Okay. I am going to show you what [6] has been marked as Exhibit 48.
 [7] (DOJ Exhibit No. 48 was marked for [8] identification.)
 [9] BY MR. WILMOT:
 [10] Q Do you recognize that document?
 [11] A Yes I do.
 [12] Q Can you identify what it is?
 [13] A That is my application for a Voluntary Leave [14] Transfer Program.
 [15] Q Okay. If you can turn back to the previous [16] exhibit. It's when - point your attention to the last [17] paragraph. There it says additionally you verbally [18] requested information regarding the Voluntary Leave Transfer [19] Program. As stated in the Program Statement you must apply [20] to become a recipient. Do you see that?
 [21] A Yes I do.
 [22] Q Do you remember having a conversation with the [23] warden about the Voluntary Leave Transfer Program before the [24] date of this letter, January 27, 2003?
 [25] A No, I don't think I did.

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[1] Q Do you remember having a conversation with him at
 [2] any point about the Voluntary Leave Transfer Program?
 [3] A I don't remember.
 [4] Q Okay. Did you submit the application that is [5] marked as
 Exhibit 48 after receiving this letter that is [6] marked as Exhibit 47?
 [7] A I don't - according to the dates, I did. But I [8] don't
 remember. According to the dates, it seems I [9] submitted this
 after the letter.
 [10] Q Okay. Looking at Exhibit 47, in the second
 [11] paragraph it says I have provided accommodation for a
 [12] situation since April 2002 and I have been willing to
 [13] provide accommodation by assuring that you work different
 [14] shifts. I can further restrict his work area to the camp if
 [15] you believe this would be a viable accommodation.
 [16] Do you see that there?
 [17] A Yes I do.
 [18] Q In reading that, did you believe that would
 [19] accommodate your post traumatic stress disorder and allow
 [20] you to return to work?
 [21] A Yes, actually that was one of the things that we
 [22] discussed. Having him out of the camp so I could get back
 [23] to normal so to speak.
 [24] Q When you say, we discussed, who is we?
 [25] A My former attorney, Sam Rizzitelli.

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[1] MS. MCDONALD: You're not to testify about [2] anything
 you discussed with any attorney that you ever had.
 [3] THE WITNESS: Oh, okay.
 [4] MR. WILMOT: That's okay.
 [5] THE WITNESS: I discussed with him on--
 [6] MR. WILMOT: You don't even want--
 [7] MS. MCDONALD: You don't even want to go there.
 [8] THE WITNESS: Okay. Sorry.
 [9] BY MR. WILMOT:
 [10] Q Did you believe this accommodation would
 [11] accommodate - or this proposed accommodation from the
 [12] warden would accommodate your situation? That being
 having [13] post traumatic stress disorder?
 [14] A I believe that it would have accommodated it at [15] some
 time, yes.
 [16] Q Would it accommodate the situation at this time in
 [17] January?
 [18] A No.
 [19] Q In January 2003?
 [20] A No.
 [21] Q And why not?
 [22] A Mentally, I still was really, I was still having [23] bad
 anxiety attacks three times a day and I was like, having [24] a hard
 time sleeping and so it wouldn't be wise for me to [25] come back
 at that time.

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[1] Q So fair to say on January 27, 2003 around that
 [2] timeframe, that there was no accommodation that would have
 [3] allowed you to return to work?
 [4] A I would have to say, yeah, I couldn't return to [5] work by
 doctor's orders. So I don't know if there was an
 [6] accommodation that would let me go back to work. I don't
 [7] know.
 [8] Q Well when I turn back to the doctor's note which [9] is
 January 8, 2003 - in Dr. Milowe's letter dated January [10] 8, 2003
 he says that if patient's assailant was not on her [11] work
 premises at all, Ms. O'Donnell would be able to work [12] full-time
 without restrictions. Do you see that?
 [13] A Yes I do.
 [14] Q So you were saying at that time, around January [15] 27,
 2003, you don't think you would have been able to return [16] to
 work at all?
 [17] A I don't think I would have been able, no.
 [18] Q Okay. So even if Mr. Reynoso was not on the
 [19] premises at all, you still were not ready to come back to
 [20] work at this time?
 [21] A On January 8, 2003?
 [22] Q Yeah.
 [23] A That is correct, I wouldn't be able to that day.
 [24] MS. MCDONALD: What date?
 [25] THE WITNESS: January 2003.

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[1] MS. MCDONALD: 8th?
 [2] THE WITNESS: Yes.
 [3] BY MR. WILMOT:
 [4] Q Well this letter dated January 27, 2003. Would [5] you
 have been able to return to work at that time even if [6] Officer
 Reynoso was not on the premises?
 [7] A I might have been able to. I don't remember.
 [8] Q Okay.
 [9] A I don't remember exactly my mental state at that [10] time.
 I know I was having really bad anxiety attacks but [11] you know, I
 don't remember.
 [12] Q Okay.
 [13] A I just specifically remember the January 8th day,
 [14] that's why I said that.
 [15] Q Okay. So when you received this letter dated
 [16] January 27, 2003 and you read the proposed accommodation
 of [17] the warden saying that he would continue to make sure you
 [18] worked different shifts from Officer Reynoso and that he
 [19] would restrict Reynoso from the camp, did you believe that
 [20] proposed accommodation would allow you to return back to
 [21] work without restrictions?
 [22] A Yes I think at that day, I think, I don't [23] remember, I
 think that was something that they were going to [24] work out so
 that I would be able to try to come back to [25] work.

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- [1] Q Okay.
- [2] A Again, I just don't remember my mental state on
- [3] January 27th.
- [4] Q Okay. Did anyone discuss with you verbally this
- [5] proposed accommodation that of restricting Officer Reynoso
- [6] to camp?
- [7] A Yes.
- [8] Q And who was that, other than your attorney?
- [9] A No.
- [10] MR. WILMOT: Okay. I am going to show you what is
- [11] marked as Exhibit 49.
- [12] (DOJ Exhibit No. 49 was marked for [13] identification.)
- [14] BY MR. WILMOT:
- [15] Q Do you recognize that document?
- [16] A Yes I do.
- [17] Q Can you identify what it is for me please?
- [18] A It's a letter from Dr. George Milowe to Steve [19] Gagnon.
- [20] Q Do you remember how you delivered that or whether
- [21] you delivered this to the Bureau?
- [22] A I believe it was faxed.
- [23] Q Okay. Do you know who it was faxed to?
- [24] A No I don't.
- [25] Q Okay. Do you remember why you sent this letter at

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- [1] this time?
- [2] A No I don't remember.
- [3] Q Do you remember when you faxed this letter?
- [4] A No.
- [5] Q Now in looking at this letter, what is the date on [6] this letter?
- [7] A January 31, 2003.
- [8] Q Did you read this letter before you sent it to the
- [9] Bureau?
- [10] A I believe so, yes.
- [11] Q Did you agree with what the doctor was stating in
- [12] this letter?
- [13] A Yes I did.
- [14] Q Let's bring your attention to the second [15] paragraph. It says there working the same environment as [16] her assailant merely intensifies her symptoms and does not [17] give her a chance to heal. Common sense and goodwill would [18] dictate that Ms. O'Donnell not be required to work in the [19] same facility at the same time as Mr. Reynoso. Do you see [20] that there?
- [21] A Yes I do.
- [22] Q At this time, you were still at home at this time, [23] but what were your restrictions, your work restrictions at [24] that time?
- [25] A I don't understand the question.

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- [1] Q If you were back at work, under what conditions [2] would you have been working?
- [3] A I would have been restricted to the mailroom, as [4] far as I knew. That was the last, that January 7th or 8th, [5] was the last day I was at work and I was restricted to the [6] mailroom.
- [7] Q Okay. Did Officer Reynoso work in the mailroom?
- [8] A No.
- [9] Q Did he ever have any reason to be at the mailroom [10] in the normal course of his duties and functions?
- [11] A Yes.
- [12] Q And what would that be?
- [13] A To read the SIS mail that we put aside for them. [14] It means they're on the hot list. That we have to put [15] aside. SIS is required to come out once daily to read it [16] just to see if there is anything that needs to be taken back [17] or whatever.
- [18] Q During the time that you were still working and
- [19] working in the mailroom, did you ever, was there ever an
- [20] occasion where Officer Reynoso went to the mailroom to
- [21] perform that function you just described while you were
- [22] there?
- [23] A No.
- [24] Q Okay. And if you still were working on January [25] 31, 2003, what would your hours have been at that time?

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- [1] A I don't know.
- [2] Q Okay.
- [3] A Because I left. I think it was 7:30 to 4:00.
- [4] Q Okay.
- [5] A And I got the letter FedExed saying they were [6] going to change me to 9:30 to 6:00.
- [7] Q Okay.
- [8] A But I don't know.
- [9] Q Okay. Now here in the second sentence of this
- [10] second paragraph, it says that Ms. O'Donnell should, I'm
- [11] filling in some words for it to make sense, should not be
- [12] required to work in the same facility at the same time as
- [13] Mr. Reynoso. Do you see that?
- [14] A Yes I do.
- [15] Q Did that happen during the period after the [16] incident at Mirror Lake up to the time that you went out on [17] Leave? Where you would work at the same facility as Mr. [18] Reynoso at the same time?
- [19] A I know they scheduled us for training together but [20] I don't think there was a time that we worked at the [21] facility together after that incident at Mirror Lake. I [22] don't ever, I don't recall an incident where we worked.
- [23] Q Okay. It also says in the second to last [24] paragraph, recovery is unlikely until the two are separated. [25] Do you see that?

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[1] A Yes I do.
 [2] Q Isn't it true that after the incident at Mirror [3] Lake, that you and Mr. Reynoso were separated on the [4] premises?
 [5] A Yes.
 [6] Q Okay. So when you sent this letter and he's [7] requesting that you not work in the same facility at the [8] same time and that you be separated, didn't the Bureau [9] already provide that situation to you?
 [10] A Yes they did.
 [11] MR. WILMOT: Okay. I am going to show you what [12] has been marked as Exhibit 50.
 [13] (DOJ Exhibit No. 50 was marked for [14] identification.)
 [15] BY MR. WILMOT:
 [16] Q Do you recognize this document?
 [17] A Yes I do.
 [18] Q Can you identify what it is?
 [19] A It's a letter from my former attorney to the [20] warden.
 [21] Q And what is it stating in this letter?
 [22] A That he is now representing me and to correspond [23] with him directly. So to go through him for everything.
 [24] Q Now it says in the third paragraph starting with [25] the second sentence, you have advised Colleen that you would

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[1] be willing to restrict Officer Reynoso to the camp. This [2] might be a responsive accommodation and we thank you for [3] such. Please elaborate on this proposed resolution so that [4] we may fully understand any impact on Colleen. Do you see [5] that there?
 [6] A Yes.
 [7] Q Were you confused at what the warden meant by [8] restricting Officer Reynoso to the camp?
 [9] A Was I confused?
 [10] Q Yes.
 [11] A No. I don't think so.
 [12] Q Did you understand what he meant by putting [13] Officer Reynoso at the camp and restricting him to that [14] area?
 [15] A Yes.
 [16] Q And what does that mean?
 [17] A That would be where he works. His duty hours [18] would be off the grounds and at the camps.
 [19] MR. WILMOT: Okay. I am going to show you what [20] has been marked as Exhibit 51.
 [21] (DOJ Exhibit No. 51 was marked for [22] identification.)
 [23] BY MR. WILMOT:
 [24] Q Do you recognize that document?
 [25] A Yes I do.

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[1] Q Can you identify what it is please?
 [2] A That's a letter, memorandum to me from the [3] Associate Warden Rick Harnes, who is also the Voluntary [4] Leave Transfer Program Screening Chairperson. I got that [5] all out. Denying my request for Voluntary Leave.
 [6] Q Okay. So that was the prior, the application that [7] you identified earlier, Voluntary Leave Application?
 [8] A The application. Yes, that is the application I [9] filled out.
 [10] Q What is the Exhibit number on that application?
 [11] A 48.
 [12] Q Okay. How is this memo, the February 10, 2003 [13] memo delivered to you?
 [14] A I don't recall. It could have been through FedEx. [15] I don't recall.
 [16] Q Okay. Did anyone notify you that your application [17] would be denied by telephone?
 [18] A I want to say someone from the union called me and [19] told me that it was denied.
 [20] Q Okay. Do you know who from the union called you?
 [21] A No I don't. No, I don't remember who called me [22] from the union.
 [23] Q Okay. Now the date on this memo is February 10, [24] 2003. In the last paragraph there it says your medical [25] emergency is based on another staff member's employment with

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[1] the Bureau Prisons and you would be able to return to work [2] if the other individual was no longer employed.
 [3] Do you see that there?
 [4] A Yes.
 [5] Q At this point February 10, 2003, if Officer [6] Reynoso was not working at the Bureau of Prisons, would you [7] have been able to return to work?
 [8] A I believe so. But again, I don't remember my [9] state of mind at that point. But I believe I would be able [10] to.
 [11] Q Do you have reason to doubt that you would not [12] have been able to return to work at that time, February 10, [13] 2003?
 [14] A I don't remember. Yes, because I don't remember [15] how I was at that point.
 [16] Q Okay. So is it fair to say that it's possible [17] that you were not in the right state of mind to return back [18] to work at that time even if Officer Reynoso was not on the [19] premises?
 [20] A No, I would not say that.
 [21] Q Okay. Now the date of your Voluntary Leave [22] Application is January 27, 2003.
 [23] A Okay.
 [24] Q And if you can just turn to the second page of [25] that. Is this your handwriting in this block, that's number

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- [1] 18?
 [2] A No.
 [3] Q Whose handwriting is that?
 [4] A That is Dr. Milowe.
 [5] Q Okay. So do you remember taking this document to
 [6] Mr. Milowe or sending it to him in some way when you filled
 [7] this out?
 [8] A Yes. I brought this to him.
 [9] Q Okay. Now at the end of this document it says
 [10] severity of emergency severe. It is recurring with daily
 [11] symptoms. Duration is likely to be lengthy, indefinite.
 [12] Many, many years as long as patient is forced to work with
 [13] David Reynoso. Do you see that there?
 [14] A Yes.
 [15] Q Now at this time as you described before, if you
 [16] returned to work under the restrictions that you were under
 [17] and Mr. Reynoso was still working the restrictions he was
 [18] working, would you ever have to work together?
 [19] A Yes.
 [20] Q How?
 [21] A If there was an emergency. An institutional
 [22] emergency.
 [23] Q Other than, how often do emergencies happen at the
 [24] institution?
 [25] A Not very often. But there has been when we have

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- [1] to stay late. You know, when it was required that we had to
 [2] stay late because of an emergency.
 [3] Q From the date of the incident at Mirror Lake to [4] the time
 when you went out in January 2003, had such an [5] emergency
 ever happened when you had to stay late?
 [6] A No.
 [7] Q Okay. So other than the possibility of an [8] emergency
 that required you to stay late, would you ever [9] have to work with
 Mr. Reynoso?
 [10] A Yes.
 [11] Q And how would that happen?
 [12] A If there was nobody over to screen the mail for [13] SIS.
 He would have to come over and screen the mail. I [14] think that
 would be it though.
 [15] Q After the incident at Mirror Lake in 2002 up to [16] the
 time that you went out in January of 2003, did that ever
 [17] happen?
 [18] A That never happened, no.
 [19] Q Okay. So other than those two circumstances you
 [20] described, would you ever have to work with Mr. Reynoso if
 [21] you were both working under the restrictions that you were
 [22] put under up to the point that you went out on leave?
 [23] A No, not that I can think of.
 [24] MS McDONALD: It's 5:00.
 [25] MR. WILMOT: Is it? It's probably a good point to

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- [1] take a break. Why don't we go off the record here, we will
 [2] continue on Friday.
 [3] (Whereupon, at 5:00 p.m., the above proceedings [4] were
 adjourned to continue on Friday, the 26th of August, [5] 2005, to
 commence at 10:00 a.m.)

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- [1] CERTIFICATE [2] COMMONWEALTH OF
 MASSACHUSETTS)
) SS. [3] COUNTY OF SUFFOLK)
 [4] I, Marilyn D. Franklin, a Court Reporter and [5] Notary Public,
 within and for the Commonwealth of [6] Massachusetts, do hereby
 certify that there came before me [7] on this 24th day of August,
 2005, the person hereinbefore [8] named, who was by me duly
 sworn to tell the truth, the whole [9] truth, and nothing but the
 truth, concerning and touching [10] the matter in controversy in
 this cause; that she was [11] thereupon examined upon her oath,
 and her examination [12] reduced to typewriting, under my
 direction, and that this [13] deposition transcript is a true and
 accurate record of the [14] testimony given by the witness.
 [15] I further certify that I am not related to any of [16] the parties
 hereto or their counsel, and that I am in no way [17] interested in
 the outcome of said cause.
 [18] Dated at Boston, Massachusetts, this 8th day of
 [19] September, 2005.
 [21]
 Marilyn D. Franklin
 [22] NOTARY PUBLIC
 My Commission Expires:
 [23] August 18, 2011

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- [1] MR. WILMOT: Mark that please.
 [2] (Exhibit No. 55 was marked for [3] identification.)
 [4] BY MR. WILMOT:
 [5] Q I'm showing you what has been marked as Exhibit [6] 55. Will you take a second to read that document?
 [7] (Pause.)
 [8] BY MR. WILMOT:
 [9] Q Can you identify what that document is?
 [10] A That's a memorandum from Steve Gagnon, Inmate
 [11] Systems Manager, to the Warden regarding a phone call he
 [12] received from me on March 20th, 2003.
 [13] Q Do you remember speaking with Steve Gagnon on
 [14] March 20th, 2003?
 [15] A Yes.
 [16] Q What can you tell me about that conversation?
 [17] A I called him to ask him the status of my [18] employment here.
 [19] I think he told me I was on AWOL, but I'm not a [20] 100 percent, and I know he said - he asked when will I - [21] when do I think I will be able to return to work.
 [22] Q And what did you say?
 [23] A I basically told him that I was hoping to return [24] soon. I don't remember giving him a date.
 [25] Q Here, his note says that you stated that you want

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- [1] to return to work on the following Monday, March 24, 2003.
 [2] Do you see that?
 [3] A Yes, I do.
 [4] Q Do you have a memory of telling Mr. Gagnon that?
 [5] A No, I don't.
 [6] MR. WILMOT: Mark this as Exhibit 56.
 [7] (Exhibit No. 56 was marked for [8] identification.)
 [9] MR. WILMOT: I'm showing you what has been marked
 [10] as Exhibit 56. Take a moment to review that and let me know
 [11] when you're finished.
 [12] We can go off the record while she's reviewing it.
 [13] (Brief recess.)
 [14] BY MR. WILMOT:
 [15] Q Do you recognize that document?
 [16] A Yes.
 [17] Q Can you identify what it is, please?
 [18] A It's a memorandum from Ken Nichols, EEO Counselor,
 [19] regarding his contact with me; what my claims were.
 [20] Q Can you flip to the section of this document where
 [21] the title is, Request for EEO Counseling?
 [22] Three pages in from there, you just flip two more. [23] One more.
 [24] On the page, it says Bate Stamp BOP 5073.
 [25] Is that your signature that appears on this page?

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- [1] A Yes.
 [2] Q What's the date of this - of your signature?
 [3] A March 19th, 2003.
 [4] Q Okay. If you could flip back just one page, and [5] I'm going to ask you this question:
 [6] Your signature, what were you signing this [7] document - what were you attesting to by signing this [8] document?
 [9] A That I agreed with what he wrote down.
 [10] Q If you could look half-way through the page. [11] there is a paragraph that starts, During the period of April [12] 2002 through January 2003, do you see that?
 [13] A Yes.
 [14] Q It continues by saying, The complainant alleges [15] that Mr. Reynoso harassed her at work, at FMC Devens through
 [16] many different means including watching her on video cameras [17] and calling her on institutional telephones.
 [18] Do you see that?
 [19] A Yes.
 [20] Q Is that statement correct?
 [21] A No.
 [22] Q And what is incorrect about that statement?
 [23] A The dates.
 [24] Q What should the dates read?
 [25] A Prior to April 2002.

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- [1] Q Okay. Now, if you flip back to the page where [2] your signature appears, you list there a number of persons [3] that have information in relation to your claim.
 [4] Do you see that?
 [5] A Yes, I do.
 [6] Q And next to the names, there are statements.
 [7] For example, the first one says, David Winn, [8] Warden, discriminated against me.
 [9] Do you see that?
 [10] A Yes, I do.
 [11] Q Can you identify, for the record, the persons you
 [12] name on this page as being persons who discriminated against [13] you?
 [14] A Yes.
 [15] David Winn, Warden; Cynthia Lord, Human Resource
 [16] Manager; Steve Gagnon, Inmate Systems Manager; David
 [17] Reynoso, Intelligence Officer; Harry Lappin, Director;
 [18] Michael Bollinger, Captain; Dennis Duffy, Special
 [19] Investigation Agent; Darren Brown, Special Investigative
 [20] Agent and Office of Internal Affairs.
 [21] Q Are there any names that, at this point, you wish [22] to add to that list, of persons that you believe [23] discriminated against you?
 [24] A No, not that I can think of.
 [25] Q If you flip two pages after that page, one more,

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[1] Q Referring to the document that we just reviewed, [2] from Steve Gagnon, I believe it's the June 23rd, 2003 [3] letter, Exhibit No. 67?

[4] A Yes.

[5] Q There it says, You must request leave without pay [6] from the Warden prior to June 30th, 2003.

[7] Do you see that?

[8] A Yes.

[9] Q Do you have a memory whether or not you requested [10] leave without pay prior to June 30th, 2003?

[11] A I don't have a memory of it, just what I see here. [12] But I don't remember it.

[13] Q Your memo, which is June 26th, 2003, Exhibit 68; [14] do you remember having a conversation with anyone stating [15] that you should fill out a proper request for leave form if [16] you're going to request any form of leave?

[17] A I don't remember if I spoke to anyone regarding [18] it.

[19] Q Did anyone ever tell you that to request leave [20] that you had to fill out a form in order to do that?

[21] A Prior to this date? I'm just confused on the [22] question.

[23] Q Prior to that date, sure.

[24] A When I first started in the bureau, I was always [25] told that we had to fill this out, request for leave - for

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[1] approved leave if we needed any time off.

[2] Q Is there a reason why you didn't fill out a [3] request for leave form, but instead submitted the memorandum [4] that's marked as Exhibit 68?

[5] A Not that I can recall. I don't know the reason.

[6] Q Now, looking at Exhibit 69, was this request for [7] leave approved?

[8] A Yes, it was.

[9] Q What dates were you approved for?

[10] A Approved leave without pay, from 7/30/2003 to [11] 8/11/2003.

[12] Q Now underneath that sentence you just read, what [13] does it say under there?

[14] A Ms.O'Donnell must provide an updated doctor's [15] note to me.

[16] Q Do you know who wrote this note?

[17] A I assume it was the Warden.

[18] Q Do you have a memory of providing the Warden with [19] a doctor's note following this request for leave form the [20] day of its approval, which is July 29th, 2003?

[21] A I don't think I did.

[22] MR. WILMOT: Mark that, please.

[23] (Exhibit No. 70 was marked for [24] identification.)

[25] BY MR. WILMOT:

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[1] Q Is there a reason why you did not provide the [2] Warden with the information that he was requesting?

[3] A Yes.

[4] Q And what is that reason?

[5] A Advice from a former attorney.

[6] Q I'm showing you what has been marked as Exhibit [7] 70.

[8] Do you recognize that document?

[9] A Yes.

[10] Q Can you identify what it is for me, please?

[11] A It's a request for leave - approved leave. I [12] requested it - from me, leave without pay, 8/11, August [13] 11th, it doesn't have till when.

[14] It says doctor's note will follow when I have my [15] next appointment in September.

[16] Q And was this request approved or denied?

[17] A Denied.

[18] Q Is there any indication in this form as to why it [19] was denied?

[20] A Yes.

[21] Q What does it say?

[22] A Ms.O'Donnell failed to follow my instructions on [23] July 29th, 2003, by not providing an updated doctor's note.

[24] Q Okay. And you agree that you did fail to provide, [25] or failed to follow the Warden's instructions to provide an

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[1] updated doctor's note?

[2] A Yes, I agree to that, yes. I didn't do that.

[3] (Exhibit No. 71 was marked for [4] identification.)

[5] BY MR. WILMOT:

[6] Q I'm showing you what has been marked as Exhibit [7] 71.

[8] MR. WILMOT: I'm going to speed up from here.

[9] MS. KELLY MCDONALD: Okay, I've got 15 minutes.

[10] BY MR. WILMOT:

[11] Q Do you recognize that document?

[12] A I do.

[13] Q Can you identify what it is for me, please?

[14] A It's a memorandum to me from Steve Gagnon, saying [15] that he has tried to contact me by telephone on Tuesday, [16] August 12th, 2003 and Wednesday, August 13th, 2003.

[17] He said he left three messages for me to contact [18] him.

[19] And then, This is notice that your request for [20] additional leave without pay has been denied as you failed [21] to provide the required medical update as directed on July [22] 29th, 2003.

[23] Effective August 13th, 2003, you have been placed [24] on AWOL status.

[25] Q Do you have a memory of the three messages that

BSA

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[1] Steve Gagnon is referring to in this letter; that he says [2] that he left for you?

[3] A No, just one message.

[4] Q You only remember one?

[5] A Yes.

[6] Q Do you remember if you responded to this message?

[7] A No, I did not.

[8] Q And it says here that you were placed on AWOL [9] status because you had failed to provide the BOP with the [10] required medical update.

[11] Do you see that?

[12] A I do, yes.

[13] Q And again, you agree that you failed to provide [14] the required medical update as you were directed on July [15] 29th, '03?

[16] A I agree, I didn't do that.

[17] Q Do remember what your next contact with any of [18] your supervisors, or anyone in HR or BOP was?

[19] A Most contact was through my former attorney, so I [20] don't remember my contact with them - or his contact.

[21] (Exhibit No. 72 was marked for [22] identification.)

[23] BY MR. WILMOT:

[24] Q I'm going to show you what's been marked as [25] Exhibit 72.

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[1] Would you take a moment to review that document [2] for me, please?

[3] MR. WILMOT: We can go off the record while she's [4] reading it.

[5] (Off the record from 11:40 a.m. to 11:45 a.m.)

[6] BY MR. WILMOT:

[7] Q Have you had a chance to review this document?

[8] A Yes, I did.

[9] Q Can you turn to the last, or second to the last [10] page of this document?

[11] On page No. 9, there's a signature on that page. [12] Whose signature is that?

[13] A It's my signature.

[14] Q What's the date of your signature?

[15] A October 18th, 2003.

[16] Q After reviewing this document today, do you still [17] believe that it is still true and complete?

[18] A I have to take a minute again just to--

[19] Q Absolutely.

[20] (Pause.)

[21] A Yes, I do.

[22] Q Yes, you do? You believe it's true and complete?

[23] A Yes. Sorry.

[24] Q That's okay.

[25] Can you flip to page 6 of that document?

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[1] At the beginning of the second paragraph on that [2] page it says, FMC Devens administration supports Mr. Reynoso [3] even though he is a convicted, violent offender.

[4] Do you see that there?

[5] A Yes, I do.

[6] Q What was Officer Reynoso convicted of?

[7] A Domestic assault and battery with a dangerous [8] weapon.

[9] Q He's a convicted - and this is in your case?

[10] A Yes.

[11] Q So your testimony is that he was convicted of that [12] charge?

[13] A Yes. He pled guilty.

[14] Q Okay. I'm going to ask you to turn to page 7.

[15] MS. KELLY MCDONALD: Can we, just for the record, [16] there are two page numbers on there so--

[17] MR. WILMOT: I can refer to the Bates stamp [18] number.

[19] BY MR. WILMOT:

[20] Q Just for the record, the previous page we're [21] reading from was Bates stamped BOP5203.

[22] I'm now asking you to look at page BOP5204.

[23] The top of the page, under the question, Explain [24] your sex-based discrimination complaint in relation to [25] management failed to provide a reasonable accommodation.

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[1] The second paragraph of the answer, last sentence, [2] it says, I'm the only female in the Inmate Systems [3] Management Department.

[4] Do you see that there?

[5] A I think I'm looking at the wrong--

[6] Q This paragraph here, the last sentence.

[7] It says, I'm the only female in the Inmate Systems [8] Management Department.

[9] Is that true?

[10] A On my side on receiving the discharge.

[11] Q What do you mean--

[12] A I'm the only Inmate Systems officer, female Inmate [13] Systems Officer. Yes.

[14] Q On receiving the discharge--

[15] A In mail room, yes.

[16] Q Are there Inmate Systems Officers?

[17] A No - male officers, yes, not female ISOs.

[18] Q Okay. So there are no female ISOs at Devens.

[19] A No, there is none besides me.

[20] Q Now, before you described in your previous [21] testimony from Wednesday, I think you said there were a [22] number of people in the mail room when you came back from [23] Mirror Lake on April 8th, 2002.

[24] You said there were some people that were in the [25] mail room at that time?

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[1] you had with Darren Brown?
 [2] A No. I remember him asking questions regarding my
 [3] AWOL, but I don't remember the conversation.
 [4] (Exhibit No. 75 was marked for [5] identification.)
 [6] Q I'm showing you what has been marked as Exhibit [7] 75.
 [8] Would you take a moment to read through that [9] document,
 please?
 [10] A Sure.
 [11] (Pause.)
 [12] All right.
 [13] Q On the last page of this document, which is Bates
 [14] stamp BOP0052, there's a signature there above the word,
 [15] affiant.
 [16] Do you see that?
 [17] A Yes.
 [18] Q Whose signature is that?
 [19] A That's mine.
 [20] Q What's the date of your signature?
 [21] A December 10th, 2003.
 [22] Q You've had a moment to review this document,
 [23] correct?
 [24] A Yes.
 [25] Q Do you remember if you reviewed this document at

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[1] the time that you signed it?
 [2] A Yes.
 [3] Q Is the content of this document true and accurate?
 [4] A To the best of my knowledge, yes.
 [5] Q If you could just turn to the page that's Bates [6] stamped
 0051; if you look at the sentence that's No. 18, do [7] you see that
 there?
 [8] A Yes, I do.
 [9] Q It says, Both my doctor and my attorney were aware
 [10] of my relationship with each other.
 [11] What does that sentence mean?
 [12] A I forget why - I mean, I forget what he asked me, [13] but
 my doctor knew that at that point I had an attorney [14] working on
 my behalf and my attorney knew that I was seeing [15] a doctor -
 a psychiatrist.
 [16] Q Do you know whether - strike that.
 [17] MR. WILMOT: Mark that, please.
 [18] Thank you.
 [19] (Exhibit No. 76 was marked for [20] identification.)
 [21] Q I'm showing you what has been marked as Exhibit
 [22] 76.
 [23] Do you recognize that document?
 [24] A Yes, I do.
 [25] Q Can you identify what it is for me, please?

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[1] A It is from my former psychiatrist, Brian Ackerman, [2] to the
 Warden regarding my current medical condition at the [3] time,
 which was December 16th, 2003.
 [4] Q Do you remember why Dr. Ackerman prepared this
 [5] letter?
 [6] A Yes.
 [7] Q Why is that?
 [8] A They investigated my AWOL and the Warden wanted to
 [9] talk to me. So I spoke with him and he asked me if I could
 [10] provide any type of medication I'm on, or anything, and it
 [11] would just be between me and him. He would be the only one
 [12] that sees it.
 [13] And that way he could make a determination on what [14] my
 discipline would be on AWOL.
 [15] Q Did you meet with Dr. Ackerman prior to his
 [16] preparation of this letter?
 [17] A Yes.
 [18] Q Do you remember when you met with him?
 [19] A I don't remember the date, but I remember when the
 [20] Warden had the conversation with me.
 [21] I actually had an appointment that day. It was [22] already
 schedule, so I met with him then.
 [23] Q What do you remember about your meeting with
 [24] Dr. Ackerman?
 [25] A I explained to him about being disciplined for

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[1] being on AWOL, and that the Warden wanted to know about
 my [2] condition, the medications I was on, to make his
 [3] determination on what discipline.
 [4] That's what I remember.
 [5] (Exhibit No. 77 was marked for [6] identification.)
 [7] Q I'm showing you what has been marked as Exhibit [8] 77.
 [9] Do you recognize that document?
 [10] A Yes, I do.
 [11] Q Can you identify what it is for me, please?
 [12] A It's a memorandum - a letter to me from the [13] Warden.
 He CC'd my attorney, and it's regarding my return [14] to work.
 [15] Q What's the date of this document?
 [16] A November 18th, 2003.
 [17] Q Do you remember how you received this letter?
 [18] A I don't remember how I received it. I remember - [19] I
 thing it might have come in to Human Resources, but I'm [20] not
 100 percent sure.
 [21] Q Now, if you turn to the second page there, there's [22] a
 note there that says, Refused to sign for receipt.
 [23] I'm not sure what that says there, but it's dated [24] November
 18th, 2003 by C. Lord.
 [25] Were you asked to sign this document?